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OFFICIAL REPORT
OF THE
PROCEEDINGS AND DEBATES
OF THE
CONVENTION
ASSEMBLED AT SALT LAKE CITY ON THE FOURTH
DAY OF MARCH, 1895, TO ADOPT A
CONSTITUTION
FOR THE
STATE OF UTAH.

Constitutional Convention 1895

LEWIS & CLARK PRESS,
SALT LAKE CITY.

Compliments of
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1895
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OFFICERS OF THE CONVENTION.

PRESIDENT

JOHN HENRY SMITH, Salt Lake City

SECRETARIES

PARLEY P CHRISTENSEN, Grantsville, Tooele County
C S RAPP, Assistant, Ogden, Weber County

ENROLLING AND ENGROSSING CLERK

JOSEPH A SMITH, Providence, Cache County

SERGEANT-AT-ARMS

R. CLAWSON, Ephraim, Sanpete County

MESSENGER

THOMAS S WATSON, Heber, Wasatch County.

WATCHMAN

BRUCE JOHNSON, Salt Lake City

JANITOR

J N SCOTT, Salt Lake City.

PAGES

JOHN H. THORN, Salt Lake City
L. C. CAMP, Salt Lake City.

COMMITTEE CLERKS:

MISS B. T. MACMASTERS, Salt Lake City.
MISS HENRIETTA CLARK, Salt Lake City.

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OFFICIAL REPORT
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CONVENTION.

FIRST DAY

MONDAY, 12 m., March 4, 1895.

The Delegates elected to the Convention to adopt a Constitution for the State of Utah assembled at the city of Salt Lake this day under and by virtue of the provisions of an Enabling Act passed by the Congress of the United States, approved July 16th, 1894, in the following words:

AN ACT to enable the People of Utah to form a Constitution and State Government, and to be admitted into the Union on an equal footing with the original States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled:

That the inhabitants of all that part of the area of the United States now constituting the Territory of Utah, as at present described, may become the State of Utah, as hereinafter provided.

SEC. 2. That all male citizens over the age of twenty-one years, who have resided in said Territory for one year next prior to such election, are hereby authorized to vote for and choose dele-

gates to form a Convention in said Territory. Such delegates shall possess the qualifications of such electors; and the aforesaid Convention shall consist of one hundred and seven delegates, apportioned among the several counties within the limits of the proposed State as follows: Beaver County, two delegates, Box Elder County, four delegates; Cache County, eight delegates; Davis County, three delegates, Emery County, three delegates; Garfield County, one delegate; Grand County, one delegate; Iron County, one delegate; Juab County, three delegates; Kane County, one delegate; Millard County, two delegates; Morgan County, one delegate, Piute County, one delegate; Rich County, one delegate; Salt Lake County, twenty-nine delegates thus apportioned, to-wit: Salt Lake City, First Precinct, four delegates; Second Precinct, six delegates; Third Precinct, five delegates; Fourth Precinct, three delegates; Fifth Precinct, three delegates; all other precincts in said county, outside of Salt Lake City, eight delegates; San Juan County, one delegate; San Pete County, seven delegates; Sevier County, three delegates; Summit

County, four delegates; Tooele County, two delegates; Uintah County, one delegate; Utah County, twelve delegates; Wasatch County, two delegates; Washington County, two delegates; Wayne County, one delegate, and Weber County, eleven delegates; and the Governor of said Territory shall, on the first day of August, eighteen hundred and ninety-four, issue a proclamation ordering an election of the delegates aforesaid in said Territory, to be held on the Tuesday next after the first Monday in November following. The board of commissioners known as the Utah Commission is hereby authorized and required to cause a new and complete registration of voters of said Territory to be made under the provisions of the laws of the United States and said Territory, except that the oath required for registration under said laws shall be so modified as to test the qualifications of the electors as prescribed in this act; such new registration to be made as nearly conformable with the provisions of such laws as may be; and such election for delegates shall be conducted, the returns made, the result ascertained, and the certificate of persons elected to such Convention issued in the same manner as is prescribed by the laws of said Territory regulating elections therein of members of the Legislature. Persons possessing the qualifications entitling them to vote for delegates under this act shall be entitled to vote on the ratification or rejection of the Constitution, under such rules or regulations as said Convention may prescribe, not in conflict with this act.

SEC. 3. That the delegates to the Convention thus elected shall meet at the seat of government of said Territory on the first Monday in March, eighteen hundred and ninety-five, and, after organization, shall declare on behalf of the people of said proposed State that they adopt the Constitution of the United States, whereupon the said Convention shall be, and is hereby,

authorized to form a Constitution and State government for said proposed State.

The Constitution shall be republican in form, and make no distinction in civil or political rights on account of race or color, except as to Indians not taxed, and not to be repugnant to the Constitution of the United States and the principles of the Declaration of Independence. / And said Convention shall provide, by ordinance, irrevocable without the consent of the United States and the people of said State—

First. That perfect toleration of religious sentiment shall be secured, and that no inhabitant of said State shall ever be molested in person or property on account of his or her mode of religious worship: *Provided*, That polygamous or plural marriages are forever prohibited.

Second. That the people inhabiting said proposed State do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within the boundaries thereof; and to all lands lying within said limits owned or held by any Indian or Indian tribes; and that until the title thereto shall have been extinguished by the United States, the same shall be and remain subject to the disposition of the United States, and said Indian lands shall remain under the absolute jurisdiction and control of the Congress of the United States; that the lands belonging to citizens of the United States residing without the said State shall never be taxed at a higher rate than the lands belonging to residents thereof; that no taxes shall be imposed by the State on lands or property therein belonging to or which may hereafter be purchased by the United States or reserved for its use; but nothing herein, or in the ordinance herein provided for, shall preclude the said State from taxing, as other lands are taxed, any lands owned or held by any Indian who has severed his tribal relations and has ob-

tained from the United States or from any person a title thereto by patent or other grant, save and except such lands as have been or may be granted to any Indian or Indians under any act of Congress containing a provision exempting the lands thus granted from taxation; but said ordinance shall provide that all such lands shall be exempt from taxation by said State so long and to such extent as such act of Congress may prescribe.

Third. That the debts and liabilities of said Territory, under authority of the Legislative Assembly thereof, shall be assumed and paid by said State.

Fourth. That provision shall be made for the establishment and maintenance of a system of public schools, which shall be open to all the children of said State and free from sectarian control.

SEC. 4. That in case a Constitution and State government shall be formed in compliance with the provisions of this act, the Convention forming the same shall provide by ordinance for submitting said Constitution to the people of said State for its ratification or rejection, at an election to be held on the Tuesday next after the first Monday in November, eighteen hundred and ninety-five, at which election the qualified voters of said proposed State shall vote directly for or against the proposed Constitution, and for or against any provisions separately submitted. The return of said election shall be made to the said Utah Commission, who shall cause the same to be canvassed, and if a majority of the votes cast on that question shall be for the Constitution, shall certify the result to the President of the United States, together with a statement of the votes cast thereon, and upon separate articles or propositions, and a copy of said Constitution, articles, propositions and ordinances. And if the Constitution and government of said proposed State are republican in form, and if all the

provisions of this act have been complied with in the formation thereof, it shall be the duty of the President of the United States to issue his proclamation announcing the result of said election, and thereupon the proposed State of Utah shall be deemed admitted by Congress into the Union, under and by virtue of this act, on an equal footing with the original States, from and after the date of said proclamation.

SEC. 5. That until the next general census, or until otherwise provided by law, said State shall be entitled to one Representative in the House of Representatives of the United States, which Representative in the Fifty-fourth Congress, together with the Governor and other officers provided for in said Constitution, may be elected on the same day of the election for the adoption of the Constitution; and until said State officers are elected and qualified under the provisions of the Constitution, and the State is admitted into the Union, the Territorial officers shall continue to discharge the duties of the respective offices in said Territory.

SEC. 6. That upon the admission of said State into the Union, sections numbered two, sixteen, thirty-two and thirty-six in every township of said proposed State, and where such sections or any parts thereof have been sold or otherwise disposed of by or under the authority of any act of Congress, or other lands equivalent thereto, in legal subdivisions of not less than one quarter section, and as contiguous as may be to the section in lieu of which the same is taken, are hereby granted to said State for the support of common schools, such indemnity lands to be selected within said State in such manner as the Legislature may provide, with the approval of the secretary of the interior; *Provided*, That the second, sixteenth, thirty-second and thirty-sixth sections embraced in permanent reservations for national purposes shall not, at any time, be subject

to the grants nor to the indemnity provisions of this act, nor shall any lands embraced in Indian, military, or other reservations of any character be subject to the grants or to the indemnity provisions of this act until the reservation shall have been extinguished and such lands be restored to and become a part of the public domain.

SEC. 7. That upon the admission of said State into the Union, in accordance with the provisions of this act, one hundred sections of the unappropriated lands within said State, to be selected and located in legal subdivisions, as provided in section six of this act, shall be, and are hereby, granted to said State for the purpose of erecting public buildings, at the capital of said State, when permanently located, for legislative, executive, and judicial purposes.

SEC. 8. That lands to the extent of two townships in quantity, authorized by the third section of the act of February twenty-one, eighteen hundred and fifty-five, to be reserved for the establishment of the University of Utah, are hereby granted to the State of Utah for university purposes, to be held and used in accordance with the provisions of this section; and any portions of said lands that may not have been selected by said Territory may be selected by said State. That in addition to the above, one hundred and ten thousand acres of land, to be selected and located as provided in the foregoing section of this act, and including all saline lands in said State, are hereby granted to said State, for the use of said university, and two hundred thousand acres for the use of an agricultural college therein. That the proceeds of the sale of said lands, or any portion thereof, shall constitute permanent funds, to be safely invested and held by said State; and the income thereof to be used exclusively for the purposes of such university and agricultural college respectively.

SEC. 9. That five per centum of the proceeds of the sales of public lands

lying within said State, which shall be sold by the United States subsequent to the admission of said State into the Union, after deducting all the expenses incident to the same, shall be paid to the said State, to be used as a permanent fund, the interest of which only shall be expended for the support of the common schools within said State.

SEC. 10. That the proceeds of lands herein granted for educational purposes, except as hereinafter otherwise provided, shall constitute a permanent school fund, the interest of which only shall be expended for the support of said schools, and such land shall not be subject to pre-emption, homestead entry, or any other entry under the land laws of the United States, whether surveyed or unsurveyed, but shall be surveyed for school purposes only.

SEC. 11. The schools, colleges, and university provided for in this act, shall forever remain under the exclusive control of said State, and no part of the proceeds arising from the sale or disposal of any lands herein granted for educational purposes, or of the income thereof, shall be used for the support of any sectarian or denominational school, college, or university.

SEC. 12. That in lieu of the grant of land for the purposes of internal improvement made to new states by the eighth section of the act of September fourth, eighteen hundred and forty-one, which section is hereby repealed as to said State, and in lieu of any claim or demand by the State of Utah under the act of September twenty-eighth, eighteen hundred and fifty, and section twenty-four hundred and seventy-nine of the Revised Statutes, making a grant of swamp and overflowed lands to certain states, which grant, it is hereby declared, is not extended to said State of Utah, the following grants of land are hereby made to said State, for the purposes indicated, namely:

For the establishment of permanent water reservoirs for irrigating purposes,

five hundred thousand acres; for the establishment and maintenance of an insane asylum, one hundred thousand acres; for the establishment and maintenance of a school of mines in connection with the university, one hundred thousand acres; for the establishment and maintenance of a deaf and dumb asylum, one hundred thousand acres; for the establishment and maintenance of a reform school, one hundred thousand acres; for establishment and maintenance of State normal schools, one hundred thousand acres; for the establishment and maintenance of an institution for the blind, one hundred thousand acres; for a miners' hospital for disabled miners, fifty thousand acres. The United States penitentiary near Salt Lake City and all lands and appurtenances connected therewith and set apart and reserved therefor are hereby granted to the State of Utah.

The said State of Utah shall not be entitled to any further or other grants of land for any purpose than as expressly provided in this act; and the lands granted by this section shall be held, appropriated, and disposed of exclusively for the purposes herein mentioned, in such manner as the Legislature of the State may provide.

SEC. 13. That all land granted in quantity or as indemnity by this act shall be selected under the direction of the Secretary of the Interior, from the unappropriated public lands of the United States within the limits of said State of Utah.

SEC. 14. That the State of Utah shall constitute one judicial district, which shall be called the district of Utah, and the circuit and district courts thereof shall be held at the capital of this State for the time being. The judge of said district shall receive a yearly salary of five thousand dollars, payable monthly, and shall reside in his district. There shall be appointed clerks of said courts, who shall keep their offices at the capital of said State. There shall be ap-

pointed for said district one district judge, one United States attorney, and one United States marshal. The regular terms of said courts shall be held at the place aforesaid on the first Monday in April and the first Monday in November of each year. For judicial purposes, the district of Utah shall be attached to the eighth judicial circuit, and only one grand jury and one petit jury shall be summoned in both of said courts.

SEC. 15. That the circuit and district courts for the district of Utah and the judges thereof, respectively, shall possess the same powers and jurisdiction and perform the same duties possessed and required to be performed by the other circuit and district courts and judges of the United States, and shall be governed by the same laws and regulations.

SEC. 16. That the marshal, district attorney and clerks of the circuit and district courts of the said district of Utah, and all other officers and other persons performing duty in the administration of justice therein, shall severally possess the powers and perform the duties lawfully possessed and required to be performed by similar officers in other districts of the United States, and shall, for the services they may perform, receive the same fees and compensation allowed by law to other similar officers and persons performing similar duties.

SEC. 17. That the Convention herein provided for shall have the power to provide, by ordinance, for the transfer of actions, cases, proceedings, and matters pending in the supreme or district courts of the Territory of Utah at the time of the admission of the said State into the Union, to such courts as shall be established under the Constitution to be thus formed, or to the circuit or district court of the United States for the district of Utah; and no indictment, action, or proceeding shall abate by reason of any change in the courts, but shall be proceeded with in the State or United States courts according to the laws thereof, respectively. That all

cases of appeal or writ of error heretofore prosecuted and now pending in the Supreme Court of the United States upon any record [from the supreme court of said Territory, or that may hereafter lawfully be prosecuted upon any record from said court, may be heard and determined by said Supreme Court of the United States; and the mandate of execution or of further proceedings shall be directed by the Supreme Court of the United States to the circuit or district court hereby established within the said State from or to the supreme court of such State, as the nature of the case may require. And the circuit, district, and state courts herein named shall, respectively, be the successors of the supreme court of the Territory as to all such cases arising within the limits embraced within the jurisdiction of such courts, respectively, with full power to proceed with the same, and award mesne or final process therein; and that from all judgments and decrees of the supreme court of the Territory, mentioned in this act, in any case arising within the limits of the proposed State prior to admission, the parties to such judgment shall have the same right to prosecute appeals and writs of error to the Supreme Court of the United States as they shall have had by the law prior to the admission of said State into the Union.

SEC. 18. That the sum of thirty thousand dollars, or so much thereof as may be necessary, is hereby appropriated out of any money in the treasury not otherwise appropriated to said Territory for defraying the expenses of said Convention and for the payment of the members thereof, under the same rules and regulations and at the same rates as are now provided by law for the payment of the Territorial Legislature.

SEC. 19. That the Constitutional Convention may, by ordinance, provide for the election of officers for a full State government, including members of the Legislature and Representative in the

Fifty-fourth Congress, at the time for the election for the ratification or rejection of the Constitution; but the said State government shall remain in abeyance until the State shall be admitted into the Union as proposed by this act. In case the Constitution of said State shall be ratified by the people, but not otherwise, the Legislature thereof may assemble, organize and elect two Senators of the United States in the manner now prescribed by the laws of the United States; and the Governor and Secretary of State of the proposed State shall certify the election of the Senators and Representative in the manner required by law, and when such State is admitted into the Union, as provided in this act, the Senators and Representative shall be entitled to be admitted to seats in Congress, and to all rights and privileges of Senators and Representatives of other states in the Congress of the United States; and the State government formed in pursuance of said Constitution, as provided by the Constitutional Convention, shall proceed to exercise all the functions of State officers; and all laws in force made by said Territory at the time of its admission into the Union shall be in force in said State, except as modified or changed by this act or by the Constitution of the State; and the laws of the United States shall have the same force and effect within the said State as elsewhere within the United States.

SEC. 20. That all acts or parts of acts in conflict with the provisions of this act, whether passed by the Legislature of said Territory or by Congress, are hereby repealed.

Mr. CRANE. At the request of a large number of the delegates—

Mr. EVANS (Weber). I desire to introduce a resolution:

“Whereas, the Enabling Act makes no provision as to who shall call the Convention to order, therefore be it resolved, that the oldest delegate hold-

ing a certificate of election be accorded the courtesy of calling the Convention to order."

Do I hear a second to this resolution?

The resolution was seconded by a number of delegates.

Mr. EVANS (Weber). I want to say, gentlemen, in support of this resolution—just a moment,—that the Enabling Act, as you all know, makes no provision at all as to the person who shall call the Convention to order. I have noticed in some of the proceedings in other States, of conventions similar to this, that where that is the case, or where the law does not provide as to the person who shall call the Convention to order, the delegates extend, as a matter of courtesy, that honor to the oldest delegate in the convention; and, gentlemen, it seems to me that that in this case, to allay any kind of feeling which might arise by reason of any action of anybody, it would be a generous thing for us to do to venerate old age and give this honor to the oldest delegate, whoever he may be. As many as favor the resolution will say aye—

Mr. EICHNOR. Mr. Chairman—

Mr. EVANS (Weber). Contrary, no.

Mr. EICHNOR. Is any person allowed to speak on this question?

Mr. EVANS (Weber). I am not presiding here.

Mr. EICHNOR. Does the gentleman from Weber County assume that he has the right to speak, and no one else?

Mr. EVANS (Weber). No, sir; I do not, but this certainly seems to me to be a question we ought to pass upon without any feeling.

Mr. CRANE. At the request of a large number of the delegates who are here present, I have been requested to call this Convention to order. I will call upon President George Q. Cannon to ask the Divine blessing. The honor was accorded President Woodruff, to ask the Divine blessing on this assemblage here today, but unfortunately President Woodruff is indisposed. The

committee therefore considered it but right that President Cannon should ask the Divine blessing.

Mr. EVANS (Weber). Gentlemen of the Convention, are we to pass upon this question? Of course we are not a Convention yet. This is simply a matter of courtesy, and I ask the privilege of being recognized for the purpose of having it passed upon, at least.

Mr. SQUIRES. Mr. Chairman, I move as an amendment to that resolution, that the Hon. Charles Crane be selected to call this Convention to order.

Motion seconded by a number of delegates.

Mr. CRANE. Gentlemen, you have heard the motion. Are you ready for the question? [Calls for the question.] All those in favor of the motion—

Mr. EVANS (Weber). I would like to know, Mr. Chairman, whether the matter is open for discussion.

Mr. CRANE.—will please say aye; contrary, no. The ayes seem to have it. The ayes have it.

Mr. EVANS (Weber). Division.

Mr. JAMES. Oh, no.

Mr. CRANE. If the Convention will please come to order, President Cannon of the Church of Jesus Christ of Latter-day Saints will ask the Divine blessing.

Mr. GEORGE Q. CANNON. Mr. Chairman and gentlemen of the Convention, it is but just to say that it is very unexpected to me to be called upon, but President Woodruff sent word to me a few minutes ago that he was unable to appear here to officiate in this capacity, and requested that I would appear and act for him. Will the assemblage please rise?

The delegates having risen, Mr. Cannon invoked the blessing as follows:

Our Eternal Father, we approach Thee in the name of Thy Son, Jesus Christ, upon this occasion, and we desire to do so in a manner that shall be acceptable in Thy sight. We feel, our Father, that this assemblage needs Thy

Holy Spirit to be with them, they need Thy help, so that in the consideration of the great and important questions that shall enter into their discussions, they may be filled with that feeling that cometh from Thee, with love for each other and for humanity, and be inspired by the highest and most patriotic motives that can fill the human breast; that in the framing of this important Constitution for this great country, they may, our Father, look constantly to Thee for that aid and help which Thou alone can give, and that even though they may not believe in Thee (there may be some, our Father, who do not have faith in God)—yet that in their hearts there may be a desire to do that which is right for their fellowmen, and to look forward to the best interests of this country, and to do everything that is possible to make this a great and a grand country, under a Constitution that shall be liberal in the largest acceptance of that term. Our Heavenly Father, the hearts of the people of this Territory are centered in their desire that this Convention may be one that shall do honor to the great questions that shall be brought before it. We therefore invoke Thy divine blessing upon all connected therewith. We ask Thee to manifest Thy power, for we do feel deeply interested in the results of the debates that shall take place here; and wilt Thou remove, Father, from the breasts of these men every feeling of improper partisanship, that they may not contend for party advantage, nor to succeed in any direction that is not in the interests of the entire people. Help them, our Heavenly Father, we beseech Thee, and let Thy blessings rest down upon every one of them, and upon him who shall be called upon to preside, whoever he may be, that he may preside with dignity and with fairness, in the midst of this Convention; and upon the committees that shall be appointed, that they may be filled with the same spirit and feeling and disposition, and

that the whole people may rejoice exceedingly before Thee, the Lord our God, at the results of this Convention, and the spirit that shall be manifested by those who take part in its proceedings. All of which we humbly ask in the name of Jesus Christ, our Lord, amen.

Mr. CRANE. The next proceeding and ceremony to-day will be the calling of the list of all those who have certificates, by the Secretary of State, Hon. C. C. Richards.

The list was then read by Secretary Richards.

Mr. CRANE. I will now call upon the Chief Justice of the Territory to swear the members in.

The oath was then administered by Chief Justice Merritt.

Governor West then addressed the Convention as follows:

Mr. Chairman and Gentlemen of the Convention: This is a red-letter day for Utah; this is the most glorious day of her history. The people who came here forty-seven years ago and made a settlement, acting with the avowed purpose, with the hope, with the desire, to grow in numbers, and by their energy and industry develop a people and a country worthy to take a place among the states of this great Republic, through all the years until now have worked and labored, endured hardships and privations, and we stand to-day with all the benefits of their toil, their energy, and their labor, as the great treasure we propose to unite to this Union of states.

Now, gentlemen, you have assembled for the purpose of making a Constitution for this new commonwealth. No greater trust, no greater responsibility, could be given you than the one entrusted to you by the confiding people of Utah. Your work, if well and wisely done, as I do not doubt but it will be, is not for to-day, it is not for to-morrow, but it is for years to come. It is not the laws that you make that can be changed with every recurring session of the Legislature, or, with every passing breath

of public opinion, but you are to make the Organic Law, you are to lay down the fundamental principles that must guide and control the destinies of this new commonwealth for many years. Therefore, your deliberations should be, as I doubt not they will be, characterized by calm consideration, due deliberation, and an entire absence of passion or of feeling, having but one star as your guide, the good, the help, the prosperity, and the safety of the whole people of this great commonwealth. [Applause.]

Now, while the work that you are to do here to-day will be for the new State of Utah, as constitution makers, you do not plunge into an unexplored field or traverse a vast and barren and uninhabited wilderness. On the contrary, you come of a race of state creators and of constitution makers; you have as your pattern the noblest instrument that probably ever enlightened the world, the great Constitution of our fathers, the Constitution of the United States. [Applause.] You have complied with the law which requires that before you begin your deliberations, a solemn oath be administered to you by the Chief Justice of this Territory, to observe and support that Constitution; and the nearer you keep, in my judgment, to that instrument, and follow its enunciations of fundamental principles, the nearer you will come to the hearts of the people, and commend the new State of Utah to her associates. So you have that instrument; and not only that, but you have the experience and the work of constitution makers of all the other states that have gone before you, and with these lights it would seem that it would be impossible for you to make a Constitution other than a most excellent and admirable one. [Applause.]

Now, gentlemen of the Convention, I feel proud, and esteem it a high honor, to voice the sentiments of the people of Utah, and bid you a hearty and cordial

welcome to the responsible and important duties that have been imposed upon you by Utah's great people. I am sure that the work that you do here will receive a cordial and a hearty approbation in the way of ratification by the people; and when that is done, there need be no fear that there can any obstacle interfere with the admission of Utah into this great Union. [Applause.] Before this time a year hence, there will be no prouder, greater commonwealth in this Union of states, than the youngest of the number, Utah. [Applause.]

Mr. CRANE. What is the further pleasure of the Convention?

Mr. CANNON. Mr. Chairman, I take pleasure in nominating as temporary president of this Convention, the Honorable James N. Kimball, of Weber County.

Mr. Kimball was then unanimously elected as temporary president, and was greeted with applause as he ascended the platform.

Mr. CRANE. Gentlemen of the Convention, I take pleasure in introducing to you Honorable James N. Kimball, of Weber County, the temporary president.

President pro tem. Kimball then addressed the Convention as follows:

Gentlemen of the Convention, I thank you for the honor thus conferred upon me. I did not come here prepared to make a speech in assuming the chair this morning; but I have this to say, that this day is one that has been long looked forward to by the people of this Territory, and that while we are assembled here to-day inaugurating this Convention, we are entering upon the performance of one of the most important duties that the people could select us to perform, and while we were elected to the position we occupy in this Convention upon partisan tickets, I feel that we all come here to-day with the idea that we are here now to work for the whole people of the Territory [applause]; and that we will each endeavor to so perform our duty that when this

Convention shall have adjourned, its work will meet with the commendation of all the people of the Territory. Again, gentlemen, I thank you for the honor you have conferred upon me. [Applause.]

Mr. EICHNOR. Mr. President, for temporary secretary, I nominate Mr. Heber M. Wells, of Salt Lake.

Mr. Wells was unanimously elected to the position.

Mr. SYMONS. Mr. President, I nominate J. F. Chidester, of Garfield County, for temporary sergeant-at-arms.

Mr. Chidester was unanimously elected.

Mr. VAN HORNE. Mr. President, I move you that the chair appoint a committee of five on privileges, elections, and qualifications of members.

Mr. IVINS. Mr. President, does the gentlemen mean that this committee of five have control of all these different matters, or that a committee of five in each of these different departments be appointed?

Mr. VAN HORNE. One committee, is the motion, Mr. President.

Mr. VARIAN. Mr. President, it seems to me that the usual and precedented order of business at this stage of the temporary organization would be the appointment of a committee on credentials. The committee spoken of is a committee belonging to a permanent organization.

The PRESIDENT pro tem. I heard no second to Mr. Van Horne's motion.

Mr. VARIAN. I move that a committee of seven be appointed as a committee on credentials.

The motion was agreed to.

Mr. JAMES. Mr. President, I move you that we take a recess until 4 o'clock.

Mr. CANNON. Mr. President, there being no second to that motion, I move you that a committee of five be appointed by the chair, on rules of order.

Mr. RICHARDS. Mr. President, I

move you that the Convention do now adjourn until to-morrow at 2 o'clock.

The motion of Mr. Richards was rejected.

Mr. VARIAN. Mr. President, I am informed by the chair that he desires half an hour or such a matter to make up that committee. As a matter of courtesy to the chair, I now move that we take a recess of an hour in order that the committee on credentials can be formed. It ought to be formed at once, or as soon as may be, in order that this matter may be taken up.

Mr. JAMES. I move as an amendment, that we take a recess of two hours.

Mr. KEARNS. Mr. President, I move as a substitute for that, that we adjourn until to-morrow morning.

Mr. EVANS (Weber). I was going to suggest to the gentleman from Salt Lake, that if we are going to have an adjournment, it ought to be long enough so that some of us can go out and get something to eat.

Mr. VARIAN. Perhaps I can make a suggestion that will obviate the difficulty. This is only for the purpose of enabling the chair to make its appointments; then the probabilities are that the Convention will have to adjourn until to-morrow, because the committee on credentials will have to have time to investigate and perform their duty. It is only for the purpose of enabling the chair to appoint that committee.

Mr. RICHARDS. Why not take an informal recess until the chair has an opportunity to select the committee?

Mr. VARIAN. I will so treat the motion, yes.

The motion was agreed to, and the Convention took an informal recess of one hour, after which it was called to order by the president pro tem.

The PRESIDENT pro tem. Gentlemen of the Convention, I will announce as the committee on credentials which I have selected:

C. N. Strevell, Mons Peterson, D. B.

Stover, David Evans, A. W. Ivins, B. H. Roberts, G. B. Squires.

Mr. EVANS (Weber). Mr. President, as a member of that committee, I would like to know the sense of the house as to what are the duties, and what is expected of them. I do not know whether I understand the extent of the power that is intended to be given to that committee.

The PRESIDENT pro tem. I assume that it is to pass upon credentials.

Mr. EVANS (Weber). I want to know whether it is expected that that committee will pass upon the contests or not?

The PRESIDENT pro tem. I did not so understand it when the motion was made.

Mr. VARIAN. Mr. President, it is a matter of parliamentary law, the committee on credentials report who are entitled to seats in this body.

The PRESIDENT pro tem. That is as I understand it, Mr. Varian.

Mr. EVANS (Weber). According to the certificates they hold?

Mr. VARIAN. Yes, sir.

Mr. EVANS (Weber). I did not want any conflict in the committee, and that is why I asked the question.

On motion the Convention then adjourned until to-morrow at 10:30 o'clock a. m.

SECOND DAY.

TUESDAY, March 5, 1895.

The Convention was called to order at 10:30 a. m. by President pro tem. Kimball.

Roll call showed a quorum present.

Prayer was offered by Rev. T. C. Iliff, of the Methodist Episcopal Church.

The journal of the first day's proceedings was read and approved.

Mr. RICHARDS. Mr. President, I move that the oath of office be administered to those Delegates who are pres-

ent this morning and who were not sworn in yesterday.

Mr. JOLLEY. Mr. President, before we proceed, I would like to say that J. L. Jolley and Mr. Peterson went down to the Chief Justice and took the oath. If it is necessary, we will take it again.

The PRESIDENT pro tem. That is not necessary, I think, sir.

The oath was then administered to Messrs. Thatcher and Hammond.

Mr. CHRISTIANSON. Mr. President, I, in connection with Mr. Jolley, took the oath yesterday.

Mr. PIERCE. Mr. President, I would suggest that the records ought to be amended in such a way as to show that these two gentlemen took the oath, that our record would be complete; and they would prima facie be entitled to participate in the proceedings; otherwise, the record would not show that they had taken the oath.

The PRESIDENT pro tem. That oath was taken privately, was it, before the Chief Justice at chambers?

Mr. JOLLEY. Yes, sir; in his office. Chairman Crane was present.

The PRESIDENT pro tem. In order that it might get on the minutes, we can order the minutes to show that they took the oath before the Chief Justice on yesterday.

Mr. EVANS (Weber). I would like to inquire of the gentleman who it was that was present when the oath was taken.

The PRESIDENT pro tem. Mr. Crane, he says.

Mr. EVANS (Weber). Who?

The PRESIDENT pro tem. Mr. Crane.

Mr. EVANS (Weber). Oh! [Laughter.]

The oath was then administered to Messrs. Thatcher, Hammond, Jolley, and Christianson.

The committee on credentials then presented its report, which was read.

Mr. VAN HORNE. Mr. President, I move you that the report of the committee as received be referred back to the committee with power to investi-

gate and report upon the qualification of the members-elect from the third precinct of Salt Lake City.

Mr. EICHNOR. I second that motion.

Mr. VARIAN. Mr. President, before the vote is taken on this question, I desire to make some observations to the assembly in support of the points that I shall make; that you are absolutely without jurisdiction in the premises. It is true, a body of this kind has the physical power; a member may cast his vote through and because of his own volition to do an act which, joined with the votes of others, may result in the consummation of something; but he has not or may not have the legal right to do it; and I know that every member of this body—every gentleman who accepts a seat in the Convention, appreciates the dignity and responsibility of his position, so that he will not knowingly violate law, concerning any vote he may have to give.

I desire to call the attention of the gentlemen, first, to the fact that this is not yet the Constitutional Convention of Utah. It is a preliminary assembly of persons who have been *prima facie* shown entitled to do—what. To participate in the permanent organization; nothing more has been done. You have under the statute law and the parliamentary law, written and unwritten, which has been handed down ever since the British Houses of Parliament were constituted, no authority as a deliberative or as a legislative body. The question presented involves the power of a legislative body to judge of the qualification of its members. I affirm that right (speaking for myself), in its fullest extreme and to the fullest extent. In the absence of some higher authority controlling the deliberations of the body called into existence by that very authority, it must of necessity exist. It involves the very right of representation and free government. But we have not reached that stage of the proceedings yet; we are not yet a legislative

body; we are still bound by the law which called us into existence, and which has itself determined the qualifications of those who shall be called upon to organize permanently this Convention.

I had supposed on yesterday that this question was so well settled and so well known that it would not be seriously controverted, but reading in the papers this morning the suggestions that had been made concerning it, and being confronted with a motion which involved the determination of this question by this body, through its committee on credentials, I ask the gentlemen present to bear with me for a few moments, so that I may, if possible, convince you, as I have convinced myself, that we lack the very essence of the right here—the power.

The Enabling Act prescribes that the election for delegates to this Convention shall be conducted, the returns made, the result ascertained, and the certificate of persons elected to such Convention issued, in the same manner as prescribed by the laws of the Territory at the present time. Those laws, and taking into consideration the act of Congress, which gives them potency and effect, require the issuance of certificates of election by a returning officer or board. The act of Congress provides that that shall be the only evidence—that is what it says—the only evidence of the right of the person claiming a seat, to sit in the first instance. This is not a new question. If there were not anything in the statute concerning it, it would doubtless be governed by the general rule which governs in all such cases, that where there is a requirement by statute of official documentary evidence, by way of certificate, as evidence of the right of a person to an office to which he claims to be elected, that he, for the time being, and he alone, is the incumbent. And in its application to legislative bodies the rule, as you will see, is laid down in these terms practi-

cally. And whether he be rightfully or wrongfully elected, he sits until the power of the legislature may be exercised, after investigation and inquiry, after a hearing at which everybody interested may be heard, shall determine to the contrary, and put in his place the man who shall have been found to have been legally elected.

Mr. Cushing, in his great standard work on the law and practice of legislative assemblies, lays down the doctrine thus:

"The right to assume the functions of a member in the first instance, and to participate in the preliminary proceedings and organization, depends wholly and exclusively upon the return of certificate of election, those persons who have been declared elected and are duly returned being considered as members until their election is investigated and set aside, and those who are not so returned being excluded from exercising the functions of members, even though duly elected, until their election is investigated and their rights admitted."

Further, he says:

"It follows, therefore, that wherever these two principles—freedom of election and equality of representation, are admitted to be fundamental, as they are in all the constitutions of government in this country, the manner of conducting elections, which has been established by the law and the evidence agreed upon beforehand to authenticate them, cannot be varied or departed from in any important particular consistently with the very nature of a representative government, and consequently, that the only evidence by virtue of which any one can rightfully assume or be permitted to assume the functions of a member of a legislative assembly under such a form of government, is the return of certificate which contains and embodies the results of the proceedings at the election as decided upon by the returning officer."

And further:

"The principles of parliamentary law applicable to the question are perfectly simple and plain, founded in the very nature of things, established by the uniform practice and authority of parliaments and confirmed by reason and analogy. These principles are as follows: First, that every person duly returned is a member, whether legally elected or not, until his election is set aside. Second, that no person, who is not duly returned, is a member, even though

legally elected, until his election is established."

In the same line stands another writer, Judge McCreary. I read from his work on election:

"The regular certificate of election properly signed is as we have seen to be taken as sufficient to authorize the person holding it to be sworn in. It is prima facie evidence of his election and the only evidence thereof which can be considered in the first instance and in the course of organization of a legislative body."

He goes on to say, touching the question of the qualification of a member who holds the certificate and speaking of a challenge made to his qualifications:

"It is to be presented at the earliest possible moment after the meeting of the house."

That does not refer to the preliminary organization. Further he says:

"It is to be observed in the outset that when a number of persons come together, each claiming to be a member of a legislative body, those persons who hold the usual credentials of membership are alone entitled to participate in the organization, for it is as we have said and had occasion several times to repeat, a well settled rule that where there has been an authorized election for an office the certificate of election which is sanctioned by law or by usage is the prima facie written title."

So another writer, Mr. Paine, on the law of election, relative to this subject matter under discussion, says:

"The certificate of an officer charged by law with the duty of ascertaining, declaring, and certifying the result of an election is conclusive evidence of the result, except in a statutory or parliamentary contest which can only be made before a legally constituted and organized assembly with jurisdiction to determine the question."

That is, the qualification of its own members.

Mr. Cushing says, in another place, in relation to the question of determining the right of members to seats in the legislature or in a legislative body:

"Each branch when duly organized and without waiting for the organization of the other may proceed to the transaction of any business of which it

has exclusive jurisdiction by itself and which does not require the intervention of the other, and therefore until both are organized should not send the above mentioned notices to the executive. In the meantime either branch, as soon as it is duly organized, may proceed for example to investigate and settle the rights of claimants to seats."

Now, sir, in the case here, as we are informed by the report of the committee on credentials, the representation from a certain precinct in this city is not here.

So far as this body is now informed there has been no return made; it cannot know officially that there has been an election in that precinct; it cannot know that until it is formed into the Constitutional Convention, with power and jurisdiction to determine the question from its proper and appropriate committee, to make investigation, to call witnesses and determine from evidence who it is that is entitled to represent, if any one, that precinct in this Convention. It does not necessarily follow as a matter of course that anybody is, because there have been cases and there may be again where nobody is elected to represent the people in a particular locality, owing to this, that, or the other cause, as the case may be.

I call attention now to what Judge McCreary says, who, as you know, was a distinguished and very learned circuit judge of the United States for many years and won chief distinction as a text writer and particularly on this subject:

"There is still another class of cases which have arisen in the lower house of Congress in which neither party holds credentials, the governor or other returning officer having refused to declare either to be elected, [that would seem to be this case] in some of these cases, the house, (after its organization) has undertaken, upon such documentary evidence as it has been able to bring before it without delay to decide the case and order one or the other to be sworn in pending the controversy. Of course the house must in each case of this character, judge whether there is before it sufficient prima facie evidence of the election of either one of the claimants, but as a

general rule, it is believed that in the absence of credentials none should be admitted to the seat in advance of an investigation by a committee, after a report thereon, and such special inquiry and report can scarcely be possible unless there is something in the nature of credentials or of written evidence of the election of one or the other claimants. If the returns are duly certified the house might act upon these or if there is an informal certificate the house may order an inquiry into its effect, but if there is no record or other documentary evidence to show what the result of the election was, it is believed that a full investigation upon the merits should precede the swearing in of either applicant. If the house finds it is obliged to take testimony generally to decide the prima facie case, it will generally find that it cannot stop short of hearing all the evidence and deciding upon the merits."

That seems to fit this case; it appears by the report from the committee on credentials that there has been no return made from the third precinct of this city and county, but it appears that affidavits have been filed tending to show that certain persons named therein were duly elected.

It is not possible, gentlemen, without overturning all the traditions and customs and laws of the century, to permit the simple filing of an affidavit that a man was elected to take the place of the certificate required and provided by law and determine the very question.

I do not doubt that when this Convention shall have been organized that through its appropriate committee it may reach out its arm and take control of this question, but it cannot determine it summarily; it has no right any more than a court of justice to pass upon questions of this kind in a summary way, or without full notice and full hearing and a fair trial. And its report again is subject to the challenge, to the inspection of the Convention, whose duty it will be to review it and go through it again. Neither is it an answer to say that if this thing is not done some portion of the people of this Territory will for a time and a time only probably remain unrepresented in the Constitutional Convention. It is better for the

interests of the State, it is in the line of public policy that the organization of a body like this should not be delayed pending the determination of contests of this kind or of claims of this character; better that people should be unrepresented all through the session than that the whole people should for even a day remain unrepresented as they are each day, that is passed in this manner by adjourning from day to day awaiting the return of a committee sent out by a preliminary organization.

Mr. Paine says in that line on that subject:

"The proposition that it is better to have the seat occupied even by an intruder than to have the district temporarily unrepresented is unsound; it is subversive of the very fundamental principles of popular representation,"

and as I read before, Judge McCreary supports him in that.

Now, then, where is your authority for this? There is none. What is the necessity for it? Is it one that will bear the light of inspection? Is it true that it is done in order to qualify any particular person to become an officer of the permanent organization of the Constitutional Convention? I submit these questions to you, each of you who are entitled to vote here at this time. First, do you believe in your conscience and your hearts, under your oath, that you have power to do it, and second, do you believe that if you have the power or do it, you deem it to be expedient and feasible to exercise it under these circumstances? Do you propose to present to those who are to come after you in this Territory by the record made here of this first and greatest legislative body that will ever be held in it, the spectacle of 102 representatives practically representing the entire Territory dawdling away their time from day to day, spending the money of the people of the United States, over four hundred dollars every day, to await the result of an

investigation which may go into days, may last weeks, to determine whether the third precinct of Salt Lake City shall be represented by five men, and who they shall be? What reason is there for it? Is it a dignified spectacle that we are going to present to the world and to the people of the Territory? The spectacle of being unable to perfect a permanent organization without going into an election contest and inquiry in this particular stage of the proceedings, and unable then, unless that election contest and the inquiry concerning it shall result in a particular way; that is what it means and it cannot be disguised nor can it be juggled out of existence. That is the spectacle that the delegates who are to form this Constitutional Convention when it shall be organized will present to the people of the Territory and the people of the United States. That is what the record will contain, whether in terms or not, that they had delayed their organization, in order to ascertain whether it were possible to reach a certain result concerning an election contest coming from one precinct in the entire Territory.

I, for one, am not willing to vote towards such a determination; I don't believe that this assembly at this time has the power to open up that contest. I don't believe that you have the power to determine upon affidavit first, whether a precinct should be represented or not—that is to say whether there was a lawful election; whether any one of the candidates represented in the election had the qualifications to take the seat as a member of the Constitutional Convention; whether any one of the candidates received a sufficient number of votes to authorize his admission; because all those matters must, if this Convention when it is organized performs its duty, be gone into and determined, and that must be determined after a hearing and a trial. As a matter of common knowledge we

know that there have been and are conflicting claims concerning this particular precinct; there has been a great deal of excitement, considerable irritation, perhaps some bitterness growing out of the matter, as it has been presented to the public during the past two months. While as men we know that there is not one of us that knows as judges where the right lies. You cannot say that you do, and you cannot one of you say that you ever will until you sit down and carefully and with unbiased minds and unclouded judgments, in so far as you can produce such a state in yourselves, and determine the question as you are bound to do it regardless of party fealty or of any allegiance, except your allegiance to the Constitution of the United States.

I appeal to you now, Republicans and Democrats—I appeal if that is not the case. I appeal to you not to write this shameful record here upon the history of this Constitutional Convention in the very beginning of its life; remember that the future will sit in judgment upon the past and the time will come when every act that we do here will be called to our recollection and in different frames of mind and perhaps under different conditions and circumstances, we will pass upon the question ourselves and for ourselves, and condemn or praise our conduct as we think it deserves. I appeal to you to stop. It is not worth it. The game, (to use a common expression), is not worth the powder. You cannot afford to do it. I cannot afford to do it. We cannot afford to make a record like this. It is our duty whatever our feelings may be, whatever our desires may be, to go on with this organization and to take up this question and any other of a similar nature, if there should be one, in the legal and parliamentary way, having power to act and power to decide. Suppose you carry this motion; your committee conforms to it

upon evidence sufficient or insufficient, as the case may be, reports a representation for the third precinct; and suppose those gentlemen take their seats; one or more of them take positions or hold office in the Convention, and after a contest when the Convention is fully organized, a hearing is had before this committee on privileges and elections, and it should be honestly determined at the expiration of the time that there had been a mistake—upon a fuller and a fairer and a more candid hearing—and it would be found the duty of the Convention to notify the gentlemen who had been seated by the temporary organization, which is not the Convention, to step down and out, what sort of a spectacle would this Convention present? I mean these delegates when organized in the Convention as they will be. I appeal to you to think of those things, not to dilly dally along here day after day to accomplish a purpose which, however righteous and just under ordinary circumstances, reaches now under the conditions to the dignity of almost a crime. It is an offense against parliamentary law, it is an offense against statutory law, it is an offense against the law of representation, to keep this Territory unrepresented during the period that will be occupied here until this matter shall be determined, unless—and of course I do not assume that—unless, Mr. President, it is already determined. There should be no question about that. It is either one thing or the other; either this means there is to be a hearing or it means that the question has been determined without a hearing. If there is to be a hearing, anybody that is interested has a right to be heard and take up the time of the committee and the time of the temporary organization in support of his claim. If there is not to be a hearing, why refer it to a committee at all? If it is to be done by the physical force of votes, they can be called here, and under the general law of the land—the

parliamentary law, if there is a majority of votes in favor of that proposition, it will be carried.

I submit this to you, gentlemen, in all seriousness, and trust that you will not be carried away into so grave and serious an error, that you will not permit yourselves to make such a mistake as will be made if this matter is prolonged and carried out as indicated by this motion.

Mr. THURMAN. I would like to have the motion read.

The Secretary then read the motion.

Mr. VAN HORNE. Mr. Chairman and gentlemen of the Convention, as the mover of the motion, it becomes my duty to speak to the question of whether it shall prevail or not. You have heard an argument against the motion. With you will rest the question of whether it is right, whether it is just, whether it is equitable, and whether it is legal, that that motion shall prevail.

To begin with, I will say that so far as I, the mover of the motion, was actuated, I made that motion with a full adherence and a full recognition of the solemn oath I took on becoming a member of this Convention. I made the motion and I adhere to the motion with a full consciousness that I am sworn to uphold the Constitution of the United States; that I am, by implication, sworn to do only such things as I think to be legal, to be right, to be equitable. No purpose other than the purpose that the people who have expressed their preference for delegates to this Convention shall have that expression recorded in the form of the delegates they sent here. No other motive than that the whole people of Utah shall be recognized in this Convention is in my mind in making that motion.

The gentleman says that only upon the permanent organization does this become a Convention; that we are dilly dallying with the question from day to day in order to seat certain men.

Mr. VARIAN. I didn't put it in that way.

Mr. VAN HORNE. I understood the gentleman that way. I may have been mistaken.

Mr. VARIAN. I said if it should be so.

Mr. VAN HORNE. The legal question of whether this is a Convention or not and whether it only becomes a Convention upon the permanent organization, I take it is decided by our action yesterday. If we were not a Convention yesterday, we have not met in accordance with this law, because it says the Convention shall meet on the first Monday in March, 1895. If we were a Convention when we met and effected a temporary organization, we are a Convention now, and will be so long as in the suffrage of these delegates here the temporary organization is continued. The gentleman says that perhaps it might come that no one would be represented from the third precinct of Salt Lake City during the whole course of the Convention. Would we have a Convention under such circumstances, when the law under which we are organized here prescribes that the Convention shall consist of 107 members? It does not mean "may" consist of that number, but to be a Convention it "shall" consist of 107 members.

The question of its once becoming a Convention when 107 members are seated—the question that it must have at some time that 107 members under this law, wouldn't be effected by what might happen in the judgment of Providence or by act of visitation of God in destroying that number, after they were once members of the delegation and the Convention was complete.

Gentlemen, we will have the permanent record of what we have done here if this Constitution becomes the Constitution of the State of Utah, and so far from thinking that it is a crime that the preliminary organization of this Convention should determine upon

some representation of some kind for a portion of the population of Utah Territory, I am willing that I go down on the records of this Convention and of all time committed to the proposition that what is just and fair and equitable and in accordance with the expression of the will of the people was attempted to be carried out by me in this Convention.

The question comes in as a contested election; it comes in with gentlemen occupying seats in this Convention, where their title is in doubt; it comes according to the report of the committee, not upon contests before them. It comes simply upon the proposition that by some means and in some way there is no representation for the third precinct of Salt Lake City in this Convention; that before that committee on credentials is filed some evidence tending to show that certain persons and no other are entitled to seats in this Convention and should have received the prima facie evidence of their title to seats. It is not our purpose, it is not our right, I take it, to go into the facts which have brought about such a state of circumstances. The only thing we can do is to recognize from the report the fact that such is the case. I think there will be no question of the fact that if the report of the committee shall be that five gentlemen shall be seated from the third precinct of Salt Lake City and they are seated by the vote of this Convention, they will then be in the position of persons holding seats on prima facie evidence and will be subject to any legal contest that may be made against their title. The purpose of a report of a committee on such a matter as this is to put into the seat to represent the people who have cast their ballots some one who has some evidence sufficient to justify his claim to a seat and to have the question whether his claim is a good one or not, and whether he shall be unseated or not, adjudicated by this Convention.

If this were a question in which partisanship might come, if it were something that a majority was striving to do to interfere with the rights of a minority, under our oaths as members of this Convention, we would be bound not to support it; but it is not; it does not tend in that way; the question is not who shall represent the third precinct of Salt Lake City, whether it shall be represented by Democrats or by Republicans. The question is, shall we proceed with the deliberations of this Constitutional Convention and deprive one portion of our great people of their right to be represented in choosing an organization and determining and outlining the policy which this Convention shall pursue. I take it—going into common report—that the non-partisanship of such a motion will be shown by the report of the committee. I take it upon my knowledge, as the gentleman takes things, that on the report of that committee, we will find that it has decreased the majority of this Convention and has not increased it. I take it that after the report of such committee, no gentleman can say that it was an attempt of the majority to force a wrong upon the minority of this Convention.

But, gentlemen will say, have said, that we are dilly dallying with this question, spending the money of the people, in order to determine some things that seem to be some way fixed in his mind as the purpose of this motion. We have precedent for continuing the temporary organization from day to day. If I am not mistaken the constitutional convention of South Dakota did not complete its permanent organization for six days after the time appointed for the first meeting of the convention. South Dakota is to-day in the Union of states without a stain upon her escutcheon because she spent six days before making a permanent organization.

Now, gentlemen, there is one other point and only one other point that I

care to refer to, and that is the admission of the gentleman that we have the power to do this thing. That if we vote to do it, it will be done. It is the question, and after the vote is taken, if it should result in that way, that it would do anything more than simply make a record, as he says, of an attempted crime. Does he think that it would affect the legality of the action of this Convention? Does he think that if we did that which was just a right and equitable thing, putting the representatives of the people of the third precinct of Salt Lake City into their seats in this Convention, making thereby the Convention represented by a full number of delegates, as required by law, that the fact that it had been done in preliminary organization would, after the Constitution had been drafted and submitted to the people and accepted by them, in any way affect the validity of such a Constitution? When all the people are represented here, can any greater question be raised as to the validity of our acts than when part of them are excluded from the floor of this Convention? Only a part of the people, according to the gentleman's contention, may have a permanent organization and proceed with this business; but the whole of them, according to this contention, likewise, if this motion prevailed and the gentlemen from the third precinct were seated—if anything after that was done, it would be an outrage upon the people. I take it that no member of this Convention will for one moment think that if the people are given full representation, if we are here, 107 delegates in temporary organization, if after that a permanent organization is effected and the deliberations of this Convention so proceeded with and our actions receive the suffrages of the people that any question can be raised with regard to the validity of it. Gentlemen, I hope the motion will prevail.

Mr. THURMAN. Mr. Chairman, I desire to ask the mover for information—

whether his motion contemplates deferring the permanent organization until the proposed report of this committee, or whether the matter is proposed to be referred to the committee and the Convention to go on with its work?

Upon the proper understanding of that question perhaps will depend my vote at least. If the motion contemplates deferring the permanent organization of this Convention, I shall perhaps vote one way; if it contemplates not deferring the permanent organization, I shall vote the other.

Will the gentleman answer the question?

Mr. VAN HORNE. The motion contemplates nothing except what it expressed; the reference of the report of the committee back to the same committee with instructions to investigate and report.

Mr. THURMAN. I will ask another question.

Is the purpose of this motion to defer the permanent organization, whatever may be on the face of the motion—is that the purpose of it?

Mr. VAN HORNE. No, sir; that is not the purpose of it.

Mr. THURMAN. Then, I understand the gentleman is willing to go on with the permanent organization?

Mr. VAN HORNE. I am willing to say this, that if the committee reports contests of the gentlemen claiming seats, that we will enter into the question of whether or not we will proceed with permanent organization, regardless of that.

Mr. THURMAN. I believe I am satisfied.

Mr. EVANS (Weber). Mr. Chairman, I believe that this is a matter which it will not be considered a waste of time to discuss a little while for the purpose of informing ourselves upon our exact situation. I desire to call attention a little more specifically to the law of Congress, which enabled Utah to elect

delegates to the Constitutional Convention and form a Constitution. I call the attention of the Convention to the second section of the Enabling Act and shall only read the portion of the section which relates directly to the election of delegates to this Convention.

(Reads.)

"And such election for delegates shall be conducted, the returns made, the result ascertained, and the certificate of persons elected to such Convention issued in the same manner as is prescribed by the laws of said Territory, regulating elections therein of members of the Legislature."

Now in order to ascertain what those laws provided, it will be necessary to make reference to them, in order to ascertain just who are properly elected delegates to this Convention—as has been suggested, *prima facie* entitled to seats in the Convention, I call attention to the Edmunds law passed in 1882, by the Congress of the United States. In section 9, which created the board of canvassers, is the following provision:

"The canvass and return of all votes at elections in said Territory for members of the Legislative Assembly thereof shall also be returned to said board, which shall canvass such returns and issue certificates of election to those persons who being eligible to such election shall appear to have been lawfully elected, which certificates shall be the only evidence of the right of such persons to sit in such assembly."

Now the words "Legislative Assembly," and "Assembly" might be changed to the word "Convention." And that section would be directly then applicable to the question which we now have in hand. Let us read it with the word Convention interpolated into the statute as required by the Enabling Act:

"The canvass and return of all votes at elections in said Territory for members of the Constitutional Convention shall also be returned to said board, which shall canvass such returns and issue certificates of election to those persons who being eligible to such election shall appear to have been lawfully elected, which certificates shall be the

only evidence of the right of such persons to sit in such Convention."

Mr. Chairman, it seems to me that in the light of the Enabling Act and the laws under which this assemblage has gathered, there can be but one opinion upon the question. It would seem to me in this preliminary organization that if we were to undertake to pass upon the election of any member who did not hold a certificate from this returning board, such action upon our part would be revolutionary and without jurisdiction. We are here as a body of men for the purpose of forming a fundamental law to guide the future State. Can we afford upon the very threshold of our duties to put an act upon the record here, which in itself is revolutionary and contrary to the very acts of Congress which have called us here together? As has been so ably stated by the gentleman upon the other side of the house, the preliminary organization is always effected and acts simply for the purpose of determining *prima facie* who shall sit in the Convention when organized. It is for the purpose, in other words, of aiding the organization of the Convention itself.

When the Convention is organized—it is usual—it is lawful among all parliamentary bodies, among all constitutional and legislative bodies, that persons claiming seats in the body, not holding certificates from the regularly constituted returning board, shall apply to that organized body for seats.

Let us see further what the spirit and meaning of this Enabling Act is. Let us see if we can ascertain from it whether it was intended that we should meet here and adjourn from day to day for the purpose of determining in advance the question as to who shall have seats in this Convention and expend the public moneys, or what the intention of Congress was. The gentleman from Salt Lake probably unconsciously or unintentionally misquoted the provisions of the

Enabling Act, which calls us together in this hall.

As I understand him, he said the Enabling Act provided that the Convention should meet on the first Monday in March, 1895. The second section of the act reads as follows:

"That the delegates to the Convention thus elected shall meet at the seat of government of said Territory on the first Monday in March, 1895, and, after organization shall declare on behalf of the people of said proposed State that they adopt the Constitution of the United States, whereupon said Convention shall be, and is hereby, authorized to form a Constitution and State government for said proposed State."

What was the intention of Congress in passing section 3 of this act? It was clearly its intention that the delegates should meet and not only meet and appoint committees upon credentials for the purpose of ascertaining who was elected in any case where it is not shown by the certificate which they hold, but it goes further in its intention and states that they must meet and organize. Suppose, Mr. Chairman, this matter be referred back to the committee, what is the power of that committee in this preliminary organization? If it had power at all, which I deny, then it has the power to receive evidence necessary for the purpose of determining the question as to who was elected. We must go into the question as to whether there was an election held. We cannot take judicial notice of that fact. We must take the returns, and if discrepancies appear upon the face of the returns, wouldn't we have the right, as a committee, to go into the ballot box and open it, and determine from the ballots who might be elected? We would have the right to receive any evidence which was within our reach and which a legislative body might enforce by process, and examine it, and determine this question. I don't say that this would be done; there may be considerable harmony upon the part of the members of the committee. I believe no member of

the committee desires to do that which would wrong any man, but that is not the question here. We are not presumed to know what has been published in the newspapers and take that as evidence, but our duties would be to receive evidence, consider it, determine the question as to who was elected, and the reason why certificates were not issued, and then, in an organized capacity, we might have the right to seat those delegates and I believe we would have.

Mr. VARIAN. I would like to ask the gentleman: Suppose a contest was filed when the committee went out—some parties filed affidavits claiming they were elected, what would be their duties then?

Mr. EVANS (Weber). I say then, if we had any duties to perform at all—I don't believe that we have any duty to perform, but if we did perform the duties of the ordinary committees on privileges and contested elections, we would have the right to receive any evidence within our reach for the purpose of determining who was elected.

Mr. VAN HORNE. May, I ask a question, Mr. Evans?

Mr. EVANS (Weber). Yes, sir.

Mr. VAN HORNE. You call attention to the statute showing a certificate should be the only evidence that would entitle one to a seat. Would you contend that if no certificate was issued, we would be unable at any stage in our proceedings of organization, to seat members elected from the third precinct?

Mr. EVANS (Weber). I do not. And I want to be distinctly understood upon that question. I have taken the position heretofore and I take it now, that when this Convention is regularly organized, it has the inherent power to judge of the qualification of its own members in the absence of any paramount law prohibiting it.

Mr. JAMES. Mr. Evans, may I ask you a question?

Mr. EVANS (Weber). And I will state

upon that particular question, I believe the act of Congress determines—

Mr. JAMES. May I ask you a question, regarding that?

Mr. EVANS (Weber). Yes, sir.

Mr. JAMES. Could you proceed under a permanent organization with any different course than you would proceed under a temporary organization; wouldn't your course of procedure have to be absolutely the same?

Mr. EVANS (Weber). Why, no; the law and decisions of the court, as have been quoted by the gentleman from Salt Lake, clearly point out the distinction. The temporary organization is effected by those persons holding prima facie evidence of their election; holding the certificate of the returning board, authorized and constituted by law. That is their right, to take the first step. But our position is that we have no right to determine whether these officers are or are not elected in the manner prescribed by law, in a temporary organization, and seat them as permanent members.

Why one of the best illustrations that could have been given was given by the gentleman from Salt Lake. It has been stated upon the part of another member from Salt Lake that there may be some individual who does not occupy a seat with us, who has some laudable ambition. It may be true—public rumor says it is, the newspapers say it is. But suppose the gentleman were seated in this temporary organization and placed in the chair as a permanent officer and then when we have the power of a Convention in our organized capacity, it will be determined that he was not properly elected to this Convention. What a spectacle it would present indeed—what a reflection it would be upon the intelligence of a free people. There should be a gentleman in the chair whose election is not in any manner in question; and by saying this, I do not desire to reflect upon the other question, that the honorable gentleman

who aspires to that position is not entitled to a seat here. We do not know whether he is or not. There is one thing sure, that if he is, the Democrats in this Convention will vote to seat him. [Applause.] And all we ask of you is to proceed in a regular way, a legal way, and a way in which we have jurisdiction to proceed, a way in which all parliamentary bodies have proceeded, and we are asking nothing else.

I promised to refer to this statute on the question of the right of the permanent organization to seat any delegate whose election is contested. Of course this is applicable to the legislature, but there is a provision in the same act of Congress of 1882, commonly known as the Edmunds law, as follows:

“Each house of such assembly after its organization shall have power to decide upon the elections and qualifications of its members.”

Now, gentlemen, can there be anything more plain than that? Make your Convention here the legislature and the law is applicable to it, and after the organization of this Convention, then we have the power to pass upon the qualifications of those delegates to seats in the Convention, but before that time we are devoid of power and cannot exercise it.

Mr. EICHNOR. Mr. Chairman, and gentlemen of the Convention, the first gentleman that opposed this motion yesterday made a motion to appoint a committee on credentials; if I am wrong, if I am in error, why please correct me.

Mr. VARIAN. Yes, sir, that was perfectly proper.

Mr. EICHNOR. I will state now, and I can cite a number of instances where the secretary of a state or the secretary of the territory is called into the convention and reads the roll. There is no committee on credentials, and I challenge any man to dispute that. When the committee on credentials is ap-

pointed, they throw open the whole question of contests and we have the right to determine it in a temporary organization. [Applause.]

I will state, gentlemen, that as a member of the majority of this house, (in politics I am a Republican) I propose to deal on the floor of this house with my political opponents the same that I would deal with them in private life; I am going to be fair and square in the matter. [Applause.]

I propose to vote for the seating of three Democrats and two Republicans. It is an historical fact that in the third precinct in Salt Lake City, Salt Lake County, Utah Territory, three Democrats, namely, Andrew Kimball, A. H. Raleigh, and William B. Preston are elected to this Convention, and that John Henry Smith and George R. Emery are also elected, and I hope that this motion will prevail and we will settle it in a temporary organization. The people of Utah have suffered enough from disfranchisement, and we are not going to set the example in this Constitutional Convention. [Applause.]

Now, Mr. Chairman, I will state further with regard to the gentleman's quotation from parliamentary law; analyze the matter that he read and what does it say? That members that have no certificate shall not be entitled to take part in the first instance. What is the first instance of this Convention? The temporary organization. Did John Henry Smith, George R. Emery, A. H. Raleigh, Andrew Kimball, and William B. Preston take part in this? No, but we are going to seat them in the temporary organization that they shall have as full voice, power, and right as any other member on this floor to take part in the permanent organization. That is my sentiment in this matter. If I stand alone; I care not, I am willing to go down on record here, that I believe that if any one has juggled, if any trickery has taken place, if any chicanery has been practiced, that I am not going

to hedge myself around with a little technicality and say we don't know it. It is as clear as the noonday sun that three Democrats and two Republicans are elected. We might as well be plain in the matter and face the situation as it is. It is not worth while then to beat around the bush.

Mr. EVANS (Weber). What is the use then in referring it to a committee on credentials at all? Why not pass on it right here if they have the power to do it.

Mr. EICHNOR. They can bring it directly before the house. I have investigated the matter to my own satisfaction as far as I am concerned. I have lived here and I have watched the contest for the last three or four months, and I say, gentlemen, don't be alarmed about voting for this motion; for the only disgrace that can be attached in any manner to the election of the delegates to the Constitutional Convention, I will refer the gentleman to Sanpete County and the third precinct.

Mr. IVINS. Mr. Chairman, may I ask the gentleman a question? I just wish to ask the gentleman if he can quote some authority to us, I would like to have it. I am in earnest about this now—if he can quote some authority for the assertion that this committee on credentials that has been appointed under temporary organization has authority to act in all cases of elections and contests as he states that they have.

Mr. EICHNOR. No. The way I understand it, there is really no contest at present. But I will hand the gentleman part of the convention record of the constitutional convention of the state of New York, where the question came up, whether the house had the power to seat other delegates in which there were contests, and here are a number of states referred to in which the committee on credentials acted.

Mr. IVINS. Will the gentleman please read the authority? I don't want him to cite them to me for me to read.

Mr. EICHNOR. There are two columns there; I didn't wish to take up the time; I will pass it over to the gentleman if he wishes it.

Mr. IVINS. I thought it would be too long for you to read.

Mr. EICHNOR. If the gentleman takes issue with me, I will state the facts.

Mr. VARIAN. It was after the organization?

Mr. IVINS. Certainly; I don't question the right after the organization is effected. I want him to quote me a single instance where it has been done under the temporary organization.

Mr. EICHNOR. There is not a word said about the permanent organization; it simply states that the committee on credentials settled the matter.

Mr. CHIDESTER. Mr. Chairman, and gentlemen of this Convention, I don't wish to appear to be revolutionary in this matter, but it appears to me that we have a simple duty to perform, and when I left home I came here to represent a portion of the community that sent me here, and their wishes are that I should act fairly in this matter; and in reading the act that enables us to elect delegates and assemble here, I find in the third section the following words:

(Reads section three of Enabling Act.)

In this act it also provides that each county shall have a certain representation in this Convention and if I am not mistaken it sets out that Salt Lake County may have thirty-nine. Now, then, we find here that Salt Lake County is not fully represented; we find that a portion of the representation that was assured to them is, for some cause, prevented from taking seats here, and, with the other delegates who have been accorded seats here, going forward and organizing this Convention and preparing to comply with this section and formulate a Constitution for the State of Utah. Now, then, it appears to me that this being the fact,

and the fact that we have gone so far in organizing as to temporarily organize, and appoint a committee on credentials, that as an inherent right they have a right to determine this question, especially when this Convention of delegates, after temporarily organizing, refers the matter back to them.

Now, whether this is revolutionary or not, I say that to me it seems to be justice. It seems to me that I would hate to go back and face my constituents and have them say to me that some certain members who had been elected to this Convention had been denied seats, and I hadn't backbone to stand up here in defense of truth, in defense of right of representation. I take it, gentlemen of this Convention, that is one of the greatest rights that men can have, is to be represented in forming the government under which they live, and it is not a full Convention until they are seated. Some one has been elected here. As for me, I know not who it is and I care not who it is. If it would change the complexion of this Convention, I would sustain this just as quick. I don't wish to be so partisan in my feelings that I would try to thwart the will of the people and the ends of justice. Therefore, gentlemen, I would sustain this motion and I wouldn't wish to influence any man, but to give my sentiments and it shall be in favor of this motion.

Mr. VARIAN. Mr. Chairman.

Mr. JAMES. Mr. Chairman—

The CHAIRMAN. Mr. Varian had the floor first.

Mr. JAMES. Mr. Chairman, I would like to have the privilege of speaking once to other gentlemen's twice.

Mr. VARIAN. The gentleman can speak when I get through.

Mr. JAMES. The gentleman wasn't interfered with when he spoke for an hour this morning.

Mr. VARIAN. I didn't interfere with him. I had the floor.

The CHAIRMAN. You need not discuss it, Mr. Varian, I recognize you.

Mr. VARIAN. I don't want to be criticized in that way. My friend Eichnor asked me the open question, if it were so that on yesterday I moved to appoint a committee on credentials, and from that he went on to argue that that was an admission of power. Not so. A committee on credentials might possibly be waived by a body like this, but it does not necessarily follow that if it chooses to have one the power of the committee is in any way acknowledged. I undertake now to challenge the gentleman or anybody, and give them all the time they want, to produce an authority in any legislative body that is worthy of the name, to the effect that a committee on credentials on preliminary organization has anything more to do than to look at the face of the returns.

Now, there is a necessity for that sometimes. Sometimes there are two sets of returns. Sometimes on the face of one return there is an inconsistency or inaccuracy, which can be solved upon the face of it and the history of parliamentary proceedings shows that in such cases they report those matters back to the convention or legislative body for its determination. As to that I say that you have complete and full jurisdiction.

I don't deny that at all. If there had been two sets of certificates here, or if there had been one set of certificates and there were inaccuracies or there were discrepancies or inconsistencies upon the face of either of them so that it was difficult or impossible to determine from the certificates themselves what they meant or who they seated; of course the committee would refer it back to this body and it would determine it from the face of the returns if it could. If it could not, it would send it over to the permanent organization.

But I want to call the attention of the house now, (so far as my friend, Mr.

Eichnor; is concerned) to the fact that at least one champion of this motion has already sat in judgment, he has made up his mind, he is ready to decide now, without a hearing, without a trial, without going through any form of parliamentary proceeding or judicial proceeding to determine the question that five gentlemen whom he has named are authorized to be seated here if he can accomplish it. Think of that. Supposing that there shall be at noon, if this matter is referred back to the committee, two or three others come with a contest, in what sort of a spirit does my friend, Eichnor, go to determine that question? He has not been a judge of a court of record, listening to this evidence. He has not been I suppose, connected with the cases sufficiently to have in his mind a judgment as to what the effect of the evidence was, but from what he knows, from what he feels, from what he understands he is ready now to vote, first, last and all the time to seat a certain number of gentlemen.

It seems to me, gentlemen, that it won't do to distort or disturb this question by getting a way from it. The fact is here for you to consider, have you the power, have you the right, do you admit for a moment that if any other set of candidates comes before your committee on credentials and demands a hearing—do you admit your power to go into it, your right to go into it? Or are you willing to say, if you haven't the power to do that, that you have a right to seat either of them until they have a hearing on both sides?

Until you are organized you have no authority to control even the fund which is given by Congress into the hands of the secretary of the Territory to pay the expenses of this Convention. You have no authority to pay the expenses of witnesses. You can do nothing, and I would like to know how a contest of that kind is to come before a committee on credentials.

I submit that to the gentleman from Sevier, I think it is, who spoke last.

Mr. EICHNOR. May I ask Mr. Varian a question.

Mr. VARIAN. Yes, sir.

Mr. EICHNOR. Mr. Varian, you are aware that the Utah Commission appointed a canvassing board for Salt Lake County, are you not?

Mr. VARIAN. Why, I have read that; I know that it is a fact outside of this Convention.

Mr. EICHNOR. Do you know what their report was on the third precinct?

Mr. VARIAN. Well, what then?

Mr. EICHNOR. Well, I ask you whether you know it?

Mr. VARIAN. I understand that it was that there were elected three Democrats and two Republicans.

Mr. EICHNOR. Yes, and I was right present when they footed up the tallies.

Mr. VARIAN. This is the most remarkable method of a lawyer determining a question. I presume if my friend Mr. Eichnor were on the bench and these cases had come before him as they did before one of the judges, he would have said:

"Gentlemen, it isn't necessary to take any evidence here; I know all about it; I was present; I saw it, I heard that, I know that the three Democrats and two Republicans were elected and you need not waste time with me. Enter upon your judgment." [Laughter.]

Hasn't this discussion developed a tendency to which I allude in one of my remarks before, that we are likely to get into a very bad scrape in this business, that we are likely to be misled and commit a very grave error?

Mr. JAMES. Mr. Chairman, I don't want to say much, I don't wish to take up the time of this Convention in discussing a proposition whether we shall give the opportunity to five gentlemen who claim to be elected and entitled to seats in this Convention, or whether we shall not give them the opportunity to establish their claim to those seats.

I don't wish to take up the time of this Convention long on a proposition of this kind; I take it for granted that the gentlemen assembled here are a class of men that have justice instilled into their minds beyond that narrowness of an attempt to defeat men that have been honestly elected to their seats, and it has been so decided as Mr. Eichnor said by a committee appointed to make the canvass, and who have made their returns.

Now I say, gentlemen, this motion included nothing more than to give these gentlemen a chance to prove whether that commission appointed by the Utah Commission made a correct count or whether they did not.

Now, I want to say to each one of you gentlemen here, you vote against this resolution and you vote against a proposition to give those five gentlemen a chance to establish whether they are entitled to their seats or not.

Every one of you that has talked here has made that admission, that you believed that we could take it up and decide it in a permanent organization, but you say to these men:

"No, you shall not come into this Convention, until we do away with this temporary organization. Then we will allow you to come in, even though we conduct the Convention clear to the end with the officer that we have in that chair now, which we have a right to do."

Every one of you knows that this temporary organization has just the same authority as any organization, or that it is possible to confer upon a body of men.

It cannot be otherwise. The Enabling Act said that you should meet here yesterday at the seat of government and that you should proceed to organize.

Haven't you done it? Yes, sir. You met here on yesterday and you organized. Now, if that wasn't an organization that has control of all

affairs that come before this body of men, what are we here for to-day?

Mr. EVANS (Weber). Mr. James, may I ask you a question? If we organized on yesterday, what is the imperative duty of this Convention immediately after organization?

Mr. JAMES. The imperative duty of this organization is just exactly what we went through.

Mr. EVANS (Weber). To adopt the Constitution of the United States?

Mr. JAMES. Yes, sir; we did that in the oath; when we took the oath every one of us did it.

Mr. VARIAN. Oh, well—

Mr. JAMES. And when you introduced the resolution to appoint the committee on credentials you performed an act under that temporary organization. They did it in one of the Dakotas—a temporary organization lasted there for five or six days; they transacted regular routine business and nobody said that it wasn't legal or proper.

Now, there has been a good deal said here about some attempt to put into office some gentleman that was the choice of this Convention, provided he could be seated. Now, gentlemen, is that any argument why we should not seat these men? For Heaven's sake, if they are the choice of the majority of the people, let the majority have their choice for their presiding officers. I should feel prouder of an election to an office in this Convention if I found I could be elected by the votes of 107 and could not be elected by the votes of 102. I should appreciate the election by the 107 very much the most.

Now, I want to say, Mr. Chairman, so far as proceeding with business that I am ready to go right on with business. We have an organization here; it is perfectly competent. We have plenty of preliminary work. I am ready to proceed with arranging of committees, putting those committees into shape, so as to get ahead with our work. It is

not necessary that we should get our permanent organization to do that.

Mr. EVANS (Weber). Mr. James, let me ask you another question.

Mr. JAMES. Yes, sir.

Mr. EVANS (Weber). Do you concede, the idea, that this preliminary organization has the power to do business?

Mr. JAMES. It has absolutely, and you are one of the judges whether it has or not, and the majority are here to say. We are a body of men that are not governed nor controlled by any precedent or any parliamentary usage. We can make our own parliamentary law.

Mr. EVANS (Weber). Have you read the third section of the Enabling Act?

Mr. JAMES. I have.

Mr. EVANS (Weber). What do you gather from it?

Mr. JAMES. I gather from it that we are simply here as a body of men so far as the detail of our work is concerned, to decide how we shall proceed with it.

Mr. EVANS (Weber). But the section itself says how we shall proceed.

Mr. JAMES. We have conformed to that part of it.

Mr. EVANS (Weber). Have we yet adopted the Constitution of the United States?

Mr. JAMES. Yes, sir.

Mr. EVANS (Weber). How?

Mr. JAMES. By our oath on yesterday.

Mr. EVANS (Weber). Then, your idea is that we are now organized?

Mr. JAMES. Yes, sir.

Mr. EVANS (Weber). Then, what is the use of the committee on credentials at all?

Mr. JAMES. Simply to decide the rights of the gentlemen that have seats in this Convention.

Mr. EVANS (Weber.) Your idea is that we can adopt the Constitution under the present organization?

Mr. JAMES. Yes, sir; we can do any-

thing in this organization that we see fit to do that is proper in forming a Constitution.

Now, I want to say, as to meeting, as Mr. Evans says, and adjourning from day to day, we only met yesterday. The remark has been used very fluently though "from day to day, from day to day." A person would think the debate here had been continued as long as the contest on the Idaho senatorial election from the remarks that have been made.

Now, I say here that we met yesterday, and did just about, according to my observation, as conventions do everywhere. We are doing to-day as they do everywhere, except that I will say that I never found a convention where the members of that convention attempted to pass a resolution to prevent delegates elected to that convention from an opportunity of showing whether they were elected or not. That is the only difference between the action of this Convention, and the usual run of conventions where I have had an opportunity of observing.

Mr. EVANS (Weber.) Have you any State in mind?

Mr. JAMES. Now, I hope gentlemen of this Convention, that there will not be a single voice raised against this resolution, not one. I hope that you will all vote for it, because it is just; and it is right, and it is proper.

The question is not up for discussion now whether these gentlemen should be seated or whether they should not be seated; it is a question whether we shall proceed so as to give them a chance to show whether they should be seated or not; that is all there is in it. Why should it meet with such opposition? Why not adopt it and give the gentlemen a chance to be heard? Give them opportunity to be seated if they are entitled to be seated.

I thank you, Mr. Chairman, I didn't intend to take up so much of your time.

Mr. ROBERTS. Mr. Chairman, I

wish to make just a few remarks on the question before the house.

I don't believe there is any disposition either on the part of the committee on credentials or on the part of the members of this Convention to deprive gentlemen from the third precinct of Salt Lake City of a seat in this Convention.

The whole question before the house it seems to me, is simply whether, under the temporary organization, the committee on credentials is qualified to enter into the investigation of the election cases in the third precinct. That is the question involved in this motion to refer the report of the committee back to it with instructions to proceed to an investigation of that case. It has been developed in the course of discussion on this floor on the question, that the very great reason for reaching the consideration of the election of these members now, is that one of their number could have an opportunity to aspire to a high position in the permanent organization of this Convention.

I wish to call the attention of members to this circumstance, that the investigation of that committee on the subject of these elections may consume considerable time and to me it would be a sad spectacle to linger along in our work day by day with the formal meetings of a preliminary organization, awaiting the action of this committee on credentials, while they investigate that subject. It is patent to all of us that there has been a good deal of controversy over those election cases.

It is possible that they may be determined in an hour or two, but it may take days to investigate that case, and it would be a waste of time—a useless waste of time of 102 members comprising this Convention when they have the authority and power to act and proceed with the business before the Convention; it would, sir, be a burning shame to continue this temporary organization day by day, awaiting the report of that committee.

With all due respect to the gentleman who was last on the floor, I must hold on the opinion that this Convention has no power to proceed with the appointment of committees and with the work of forming the Constitution until the permanent organization is effected, and I believe the gentleman from Weber who spoke upon the subject at some length read the law that applies in this case, that until this Convention is organized we can not go into a consideration of these cases.

The gentleman told us there is no contest in this case. We do not know whether there will be a contest or not. There is ground for contest and the contest may arise.

In the meantime we present the spectacle before the country of wasting, literally, the time of this whole Convention pending the investigation of this question. For what?

Why, for the only purpose of giving some gentleman an opportunity to aspire to an office in the permanent organization.

Is it true that of all the delegates assembled there is but one man that can be elected to the position of president of the permanent organization?

Gentlemen have quoted the fact, (I presume it is a fact, I accept it as such upon their statement) that South Dakota operated for six days under its temporary organization. If South Dakota so proceeded, South Dakota wasted just so much of its time.

I appeal to the common sense of this Convention, not to pick bad from bad, but let us proceed upon lines that will enable us at once to discharge the duties devolving upon the members of this Convention, that of writing a Constitution for the future State of Utah, and not hang up this Convention pending the action of a committee.

Let us proceed upon lines that we are sure will be right. Let this matter go over to a committee of elections and

privileges under the permanent organization.

Men would do well perhaps—I doubt not in my estimation that they would do well to suppress personal ambition in order that work may go on.

Mr. Chairman, I can not support this resolution, as I do not think that committee on temporary organization has the power to investigate those elections and it would be, in my estimation, a burning shame to hang up the proceedings of this Convention, perhaps for days, before proceeding to act.

Mr. GOODWIN. Mr. Chairman, only for a moment.

It seems to me we are wandering away from the question. In all matters of this kind when a committee of credentials is appointed, that committee goes out, comes in, and makes a partial or a whole report. The committee on credentials have been out once and they have made a partial report and asked for instructions on the remainder of it. This resolution instructs them to go back and examine the papers in the case and make another report; if that is satisfactory to this house, it will be adopted. If not, it will be rejected.

We are talking about the powers of the committee. They have simply the powers to examine the papers in the cases as presented to them and give that fact before this house. I do not see that this debate is proper at this point. It seems to me that when they make their final report then it will be for this Convention to decide whether they will accept that report or not.

Now, the gentleman that just spoke wondered if there were but one gentleman in this house that could act in one of the higher offices. I beg to assure him there are 102. Now, the object of that committee to have a primary report is to see if there are not 107.

Mr. CANNON. Mr. Chairman and gentlemen of the Convention, I favor the motion which has been made.

I favor it because, unless we do hear

from that committee and until they report upon these contested seats or upon the seats that are in question, you don't have full representation. Fourteen hundred men, within a fraction more or less, are denied representation, until these cases are settled.

The gentleman who last spoke in opposition to this motion said:

"Is there but one man here who is worthy of the high position to which he aspires?"

I would ask, is there one man here who would deprive fourteen hundred American citizens of the right of representation, even in the formation of this permanent organization. The gentleman stated that he was willing to concede that in all human probability later on these men would be seated. Why not seat them so that they have their voice upon every question that comes up before this Convention?

The Convention, as I take it, is the judge of the qualification of its own members. The committee on credentials—whether or not it had the power to investigate these cases, comes in and reports to us certain facts, declaring that five men have presented certain evidences of their election.

Just 102 men had the certificate of the secretary of the Territory. They declare that they have there a judgment of a certain court, and if you will investigate those papers you will find that in that judgment and made a part thereof are certain findings of fact, which declare that five men had a majority of the votes cast in that election.

The men who haven't seats on this floor represent a constituency larger than many of the counties of this Territory combined, and the principle which is at stake is not so trifling as gentlemen would make it appear.

The gentleman who last spoke in opposition said: "Shall we fritter away days in investigating this?" I would say, aye, when in so doing we have a

principle at stake, which is the basis upon which our government rests; that it is that which brought on the war with Great Britain and made our country free—the right of representation; and here we have fourteen hundred men asking through their duly elected delegates they should be represented on this floor.

For this reason and because I believe that we have the right to refer this matter to them, I am in favor of referring it to the committee with power to act.

Gentlemen have said not to take note of newspaper rumors, yet every man who has spoken in opposition to this motion, commencing with the man who opened the opposition, has taken newspaper rumor and has attempted to play upon your fears and prejudices, claiming that some man aspires to a high position and that because of these newspaper rumors you should deny people their representation. I say that it shows the bias of their argument, for they do not take note of that which has been published for months and they listen eagerly to that which has been whispered for a few hours.

I am in favor of the motion.

[Applause.]

[Calls for the question.]

Mr. HART. I move you, Mr. Chairman, as an amendment to the motion that we adopt the report of the committee on credentials. There is some doubt even in the mind of the gentleman who made his motion, it seems to me, as to the scope and purpose of it and I am in favor of disposing of this question in parts. Let us seat 102 members first and then afterwards decide what we shall do—whether we shall refer this matter to the committee on credentials in reference to the third precinct, or whether we shall proceed to a permanent organization, and therefore, Mr. President, I move you this amendment.

The CHAIRMAN. I hear no second to that motion.

Are you ready for the question on the original motion?

Mr. VAN HORNE. Mr. Chairman, I wish to call the attention of the members of the Convention briefly to some things—

Mr. EVANS (Weber). I second the amendment to the motion.

The CHAIRMAN. Mr. Van Horne has the floor now.

Mr. VAN HORNE,—that have been said in the discussion of this motion.

I wish to call attention to the first part of section 2, Enabling Act.

“Such delegates shall possess the qualifications of such electors; and the aforesaid Convention shall consist of 107 delegates.”

As we are now, we consist of 102 delegates. I wish to call also the attention of the Convention to the argument of the gentleman from Weber County, with regard to the latter part of the same section, in which is provided the manner in which these elections shall be conducted, the returns made, the results ascertained, and the certificates of persons elected to such Convention, issued, in such manner as is prescribed by the laws of said Territory regulating elections therein of members of the Legislature. The gentleman called attention to the fact of a special statute in the Territory which says that the certificate issued by the returning board shall be the only evidence entitling a person to a seat.

The act of Congress says—

Mr. EVANS (Weber). Mr. Van Horne, you misunderstood me. This is an act of Congress I am talking about.

Mr. VAN HORNE. You referred to an act of Congress governing the Legislature of Utah.

Mr. EVANS (Weber). Yes, sir.

Mr. VAN HORNE. This is not incorporated into the Enabling Act under which we are acting to-day. That pro-

vision is left out of that, as to what evidence or certificate shall be given and in place thereof is put in the mandatory direction to the Utah Commission to issue the certificate to the person elected. That certificate for some reason, as it appears from the report of the committee on credentials, has not been issued to the members-elect from the third precinct. There is no prima facie title to a seat from the third precinct.

We are not 107 delegates. The committee reports that there are certain things before them tending to show that these gentlemen were elected as delegates and are entitled to a seat.

Upon the report of that committee and the adoption, if it be adopted, by this Convention, there will be a prima facie case made, entitling those gentlemen to a seat; and the question of open contests will then come before this Convention properly, and can be properly made.

I call the attention of this Convention to the fact also instanced by the gentleman from Weber, that we have not adopted the Constitution of the United States.

I do not think that the contention is right, that our simply taking the oath as individual delegates is an adoption of that Constitution, as provided in this Enabling Act. I think it will require an ordinance of this Convention, and that that ordinance must come immediately after the permanent organization of this Convention, and immediately after the permanent organization of this Convention, the Convention shall declare on behalf of the people that they adopt the Constitution of the United States.

Unless in temporary organization we seat some gentlemen from the third precinct, who will be authorized on behalf of the third precinct and the fourteen hundred voters therein to declare that they adopt the Constitution of the United States? Can we do it? We are not elected as their representatives; they have a right to a voice in saying

whether they shall adopt the Constitution of the United States or not.

If those five members come in here and others here are unwilling to adopt the Constitution of the United States, we could not proceed with making a Constitution for the State of Utah.

Mr. Chairman, it is not a question of rumor; it is not a question of newspaper notoriety, that is to be determined in this Convention; it is a question of fairness, of justice, of compliance with the act under which we sit in this Convention, and of the ability to so fill the Convention, that when it comes to the adoption of the Constitution of the United States by this Convention, no part of the people of the Territory of Utah can ever say, "our delegates could not take part in the adoption of the Constitution of the country."

Mr. MURDOCK (Beaver). Mr. Chairman, I think this is a very simple matter, although there has been a great deal said about it. Would we be a perfect body according to the Enabling Act and according to our own judgment, without the whole delegation? I say not.

Some have questioned a temporary organization as being incompetent to do business. Why, it is a very absurd thing in my estimation. What are they for? They are to remove every obstacle that may present itself before this body, and prepare for a permanent organization, and if they haven't the right to remove every obstacle that may present itself before this body, then they are a body that has no power whatever.

It is not in the hands of this body to refer this to the committee. It is in the hands of the committee, and I have that confidence in that committee, that they will be able to handle the matter properly in the interests of this Convention. There have been intimations made that there was something being labored for. That comes hereafter, in regard to the permanent organization. I thank you for your consideration.

[Calls for the question.]

Mr. ELDREDGE. Mr. Chairman, I wish to be brief and to call attention to a few items in section two of the Enabling Act.

The "Convention shall consist of 107 delegates, apportioned among the several counties, within the limits of the proposed State, as follows." It goes on and enumerates the several counties until it reaches Salt Lake County, and states that Salt Lake County shall have 29 delegates, "thus apportioned, to-wit," etc. And when we reach the third precinct, we find, that it entitles that precinct to a representation of five delegates on this floor.

That precinct then becomes a constituent part, Mr. Chairman and gentlemen of this Convention, of this Convention, and the people residing within its borders have the same rights and privileges as the people of any other county of this Territory, and the proceedings, as I understand it, as now being taken are not for the purpose of giving some gentleman who may aspire to the chairmanship or presidency of this Convention the opportunity of doing so, but they are for the purpose of giving that precinct a representation upon this floor, even if it only be *de facto* in place of *de jure*.

Therefore, I am in favor of leading up to this specific object, and as I understand the situation that committee on credentials has had proof by certificates issued by the commission to seat 102 delegates on this floor, and they have evidences of a different character by affidavits, etc., that show that there are five others entitled to seats here and that there has been no contest filed against the seating of those five, and therefore it is not a case of contest, but it is purely a case of representation, and are we, at the very opening of this Convention, at the very beginning of

forming a Constitution granting unto the people the rights and privileges that they wish to exercise, to undertake to perpetrate upon one of the principal precincts of this county such things as these people have suffered under too long? [Applause and cries of no.]

Mr. THATCHER. I do not desire, Mr. Chairman, and gentlemen of the Convention, to occupy more than a few brief moments of the valuable time of this gathering, but I do wish to call the attention of the Convention to the expressions of the committee itself. All this time has been devoted to a discussion in trying to refer the matter to the committee, in which they disclaim any jurisdiction whatever, and therefore if it comes before them, it will go before a body of men who claim that they have no authority in the matter.

If you permit me, Mr. Chairman, I will read their language:

(Reads from report.)

Here we have the opinion of the committee itself. I think there is no division of opinion as to the right of five gentlemen representing the fourteen hundred, but I think it will take us some time to determine who those five gentlemen are.

Mr. LAMBERT. Mr. Chairman, I would like to have our secretary read the motion that was made.

Motion was read by the secretary:

The question being put and the ayes and noes called for, the vote was as follows:

AYES—61.

John R. Murdock	Symons
Anderson	Eichnor
Gibbs	Moritz
Peter Low	Mackintosh
Maughan	Lambert
Chidester	Hill
Peterson	Morris
Heyborne	Button
Hyde	Van Horne
Ryan	Wells
Coray	James
J. E. Robinson	Goodwin

Thompson	Ricks
Crane	Miller
Allen	Brandley
G. P. Larsen	Eldredge
Lund	Keith
Jolley	Kearns
L. Larsen	J. D. Murdock
Page	Stover
Peterson	Clark
Christianson	Maeser
Williams	Jos. R. Murdock
Cannon	W. E. Robison
Bowdle	Farr
Green	Strevell
Cushing	Driver
Squires	Adams
Shurtliff	McFarland
Haynes	Kimball
Pierce	

NOES—37.

Peters	Johnson
William Low	Thurman
Thatcher	Corfman
Kerr	Partridge
Warrum	A. J. Evans
Hughes	Creer
Thoreson	Halladay
J. P. Low	Lemmon
Hart	Boyer
Roberts	Engberg
Call	Thorne
Barnes	Cunningham
Sharp	Buys
Howard	Ivins
Francis	Snow
Nebeker	David Evans
Hammond	Lewis
Varian	Maloney
	Spencer

The motion was thereupon declared carried.

Mr. FARR. Mr. Chairman, I have deferred making remarks on this question. My mind has been clear through from the start—

The CHAIRMAN. Mr. Farr, there is nothing before the house.

Mr. EVANS (Weber.) Mr. Chairman, he is an old gentleman, and I move that he be extended the courtesy.

Mr. FARR. The remark has been made that this committee has reported and they have not the authority. I wish to say that that committee has the authority according to their report, which is right in the matter.

Mr. KERR. I move we adjourn until three o'clock.

Seconded.

Mr. CRANE. Will the gentleman allow me to make a motion?

I desire, Mr. Chairman, to make a motion that the chair appoint a committee of seven to confer with the secretary of the Territory in regard to furniture of this room.

Will Mr. Kerr withhold his motion for that motion?

Mr. KERR. That may lead to a considerable discussion. It seems to me that it can be brought up this afternoon.

The CHAIRMAN. The motion to adjourn is in order.

Mr. PIERCE. Mr. Chairman, I arise to a point of order; it wasn't a motion to adjourn, it was a motion to fix the time for adjourning.

The CHAIRMAN. I understand the motion to be that we do now adjourn.

Carried.

The Convention then, at one o'clock p. m., adjourned until 3 o'clock p. m.

TUESDAY, 3 o'clock p. m., March 5, 1895.

The Convention was called to order by temporary Chairman Kimball.

Mr. VAN HORNE. Mr. Chairman, I move you that the chair appoint a committee of five on site of holding this Convention and furniture.

Carried.

Mr. ROBINSON (Kane). Mr. Chairman, I move you that while this matter is under consideration we adjourn until to-morrow morning at 10 o'clock.

Mr. THURMAN. Oh, no, let's go on.

Mr. EVANS (Weber). I second the motion.

Mr. CHAIRMAN. You will withdraw the motion until the committee is appointed, won't you?

Mr. ROBINSON (Kane). Yes; after the committee is appointed, I will make that motion.

The CHAIRMAN. The chair will appoint on the committee W. G. Van Horne, A. C. Lund, J. A. Hyde, S. R. Thurman, Aquila Nebeker.

Mr. KERR. Mr. Chairman, I move that we proceed to the election of a permanent president of this Convention.

Seconded.

Mr. ROBINSON (Kane.) Mr. Chairman, I make a motion to adjourn, which is before the house.

Mr. THURMAN. Mr. Chairman, just one moment; I don't suppose this Convention will commence the permanent organization at this time.

The CHAIRMAN. That motion is not before the house. I heard no second.

Mr. THURMAN. But there is something that we can do and we will facilitate business by doing it. If the Convention had the power to act as it did this morning, and they exercised it, we can proceed at the present time to at least determine the standing committees that this Convention ought to have, and we can so far proceed with that that we will save probably just twenty-four hours by doing it now. If the gentleman will withhold his motion to adjourn until at least that much is done, I will move the chair to appoint a committee to report to-morrow morning the number and kind of standing committees the Convention ought to have. Of course, I don't believe in exercising that power under the temporary organization, but we have broken over the rule and I am in favor of doing it for the sake of getting along, even if the permanent organization has to ratify what we do.

Mr. MALONEY. Mr. Chairman, I second that motion.

The CHAIRMAN. I didn't understand that the gentleman from Kane County yielded his motion.

Mr. ROBINSON (Kane). No, sir; I haven't yielded, on the ground that the

other committee should make its report before we can proceed in a proper manner.

Mr. EICHNOR. Mr. President, I would request the gentleman from Kane County to withhold his motion for a little while. I understand the committee on credentials is ready to report.

Mr. ROBINSON (Kane.) I will withhold it on that ground.

Mr. ELDREDGE. Mr. Chairman, I would move that the chair appoint a committee, consisting of one member from each county, to formulate the number of committees that will be necessary for this Convention to appoint and report to-morrow.

Mr. CHAIRMAN. That was the motion already made by Mr. Thurman and seconded by Mr. Maloney, with the exception as to the number of the committees.

Mr. THURMAN. I will accept the amendment of Mr. Eldredge.

Carried.

The CHAIRMAN. I would like to request each county delegation to select its own members and furnish me the names for that committee.

Mr. THURMAN. Shall we take an informal recess for a few minutes?

The CHAIRMAN. I understand the committee on credentials has now come in; we will hear their report pending that.

The committee on credentials thereupon reported as follows:

Mr. President and gentlemen of the Convention:

Your committee, to whom was resubmitted the matter of right to seats in the Convention from the third precinct, Salt Lake City, beg to report that they have examined the evidence in the above named cases, and find from the face of the returns that the following named gentlemen are entitled to seats in the Convention:

George R. Emery, W. B. Preston, John Henry Smith, Andrew Kimball, A. H. Raleigh, and that there is no contest in any of these cases. We respectfully recommend that they be seated in the Convention.

[Signed] CHARLES N. STREVELL,
Chairman.

Mr. STREVELL. Mr. Chairman, I wish to move the adoption of this report.

Mr. JOLLEY. I second the motion.

The CHAIRMAN. The other part of the report is not read; it remains the same as it was read this morning, in favor of 102.

Mr. JAMES. Do I understand that the report is unanimous?

Mr. STREVELL. It is, yes, sir.

Motion carried.

Mr. EVANS (Weber) offered the following resolution:

Resolved, that we proceed immediately to effect a permanent organization.

Mr. ROBERTS. I second the motion.

Mr. ROBINSON (Kane). I wish to press my motion to adjourn.

Mr. EICHNOR. I move to lay that motion on the table.

Motion seconded.

Mr. JAMES. Mr. Chairman, I move that the gentlemen just seated come forward and be sworn in.

Mr. EICHNOR. Then I will withhold my motion to lay on the table with the consent of my second.

Thereupon Messrs. Emery, Smith, Kimball, Raleigh, were sworn in by the temporary chairman.

Mr. ROBINSON (Kane). I wish to press my motion to adjourn, Mr. Chairman, until tomorrow at 10:30.

Mr. EVANS (Weber). Mr. Chairman, I suppose, of course, that motion is not debatable, except as a question of time, and I want to oppose it for the reason that I think that we ought to commence doing business, and I move as an amendment to that, we adjourn for ten minutes. I want to say, Mr. Chairman, that we ought to do something now; we have gotten along so far, we ought to commence to legislate. We ought to organize. It has been stated that this Convention costs four or five hundred dollars a day. If it is carefully estimated it will be found it will cost one thousand dollars a day counting rents, reporters,

officers, and printing, and we have only a thirty thousand dollars appropriation, which will only run us through thirty days; it seems to me that we ought to do something now. We certainly can effect the permanent organization, having committees appointed and commence doing the work that the people expect us to do.

Amendment seconded.

Mr. THURMAN. Mr. Chairman, I wish to call the attention to the fact that there is a matter that was begun a few moments ago that has not been completed, and that motion was of no avail unless we complete that committee, so that they can go to work; and for that reason I will favor the motion to adjourn, or take a recess, whatever you may please to call it, for ten minutes so that the county delegations can get together and name a man to suggest to the chair.

Mr. VAN HORNE. Very well, I have no objection to that.

Mr. THURMAN. In the meantime, gentlemen of the majority, if you can agree on your chairman, we will proceed with the business; we think that we can accept it.

The Convention thereupon took a recess for ten minutes.

At the expiration of ten minutes the Convention was called to order and the following appointed as a committee for the purpose of determining the number and kind of standing committees that the Convention shall have:

Messrs. Pierce, Salt Lake; Anderson, Beaver; Snow, Washington; Francis, Morgan; Allen, Piute; Chidester, Garfield; Peters, Box Elder; Howard, Emery; Roberts, Davis; Heyborne, Iron; Robinson, Kane; Keith, Summit; Ryan, Juab; Kerr, Cache; Stover, Tooele; Jolley, Sanpete; Corfman, Utah; Buys, Wasatch; Maloney, Weber; Nebeker, Rich; Robison, Wayne; Thompson, Millard; Peterson, Grand; Hammond, San Juan; Miller, Sevier; Johnson, Uintah.

Mr. VAN HORNE. Mr. Chairman, I

would request the chair to substitute some gentleman's name instead of mine on the committee on site and furniture.

The CHAIRMAN. Do you decline?

Mr. VAN HORNE. Yes, sir, I decline.

The CHAIRMAN. I substitute the name of Jacob Moritz on the committee on site and furniture in place of W. G. Van Horne.

Mr. CRANE. Mr. Chairman, I move we now adjourn until 10:30 to-morrow morning.

Carried.

The Convention thereupon, at 3:45 o'clock, adjourned until 10:30 o'clock to-morrow morning.

THIRD DAY.

WEDNESDAY, 10:30 a. m., March 6, 1895.

The Convention was called to order by Mr. Goodwin, of Salt Lake.

Mr. GOODWIN. Gentlemen, the Chairman pro tem. is ill this morning and he has done me the honor to ask me to rap around in his chair until you can do better.

The Reverend R. G. McNiece, of the First Presbyterian Church, offered prayer.

The secretary then called the roll showing the following members present:

Adams	Larsen, C. P.
Allen	Lemmon
Anderson	Lewis
Barnes	Low, William
Boyer	Low, Peter
Brandley	Low, J. P.
Buys	Lund
Call	Maeser
Cannon	Mackintosh
Chidester	Maloney
Christianson	Maughan
Clark	McFarland
Coray	Miller
Corfman	Morris
Creer	Moritz
Cunningham	Murdock, Beaver

Cushing	Murdock, Wasatch
Driver	Murdock, Summit
Eichnor	Nebeker
Eldredge	Page
Emery	Partridge
Evans, Utah	Peters
Evans, Weber	Peterson, Grand
Farr	Peterson, Sanpete
Francis	Pierce
Gibbs	Raleigh
Goodwin	Richards
Green	Ricks
Hammond	Roberts
Hart	Robinson, Kane
Haynes	Robison, Wayne
Halliday	Ryan
Heyborne	Sharp
Hill	Shurtliff
Howard	Smith
Hughes	Snow
Hyde	Spencer
Ivins	Squires
James	Stover
Johnson	Symons
Jolley	Thatcher
Keisel	Thompson
Keith	Thoreson
Kearns	Thorne
Kerr	Thurman
Kimball, Salt Lake	Van Horne
Kimball, Weber	Warrum
Lambert	Williams
Larsen, L.	

Mr. EVANS (Weber). Mr. Chairman, I desired to be excused for to-day.

Mr. RICHARDS. Mr. Chairman, I also desire to make the same request. I have a case on trial requiring my attention.

Messrs. Evans and Richards were excused.

The SECRETARY pro tem. Mr. Chairman, I have a request from Mr. Whitney asking to be excused because he was called to Provo on account of sickness.

Mr. ADAMS. I wish to ask to have Mr. Strevell excused. He was unable to come this morning.

The CHAIRMAN. The gentlemen will be excused.

Minutes of the previous day's session were read and approved.

Mr. ADAMS. Mr. Chairman, Mr. F. J. Keisel of Weber is in the house and has not been sworn in; I would suggest that he be sworn in, and if in order I would move that he be.

Mr. PIERCE. Is Mr. Preston here also? While we are waiting, I desire to move that until otherwise ordered the Convention be governed by Roberts' Rules of Order. We have adopted no rules of order yet. These are the standard rules of order.

Carried.

The oath was then administered to Mr. Keisel.

Mr. PIERCE. Mr. Chairman, I move you that we do now proceed to elect a permanent president.

Carried.

Mr. SQUIRES. Mr. Chairman, I place in nomination for the position of president of this Convention the Hon. John Henry Smith of the third precinct of Salt Lake City.

Mr. MURDOCK (Beaver). Mr. Chairman, I second the nomination.

The CHAIRMAN. Nominations are in order, gentlemen.

Mr. EICHNOR. Mr. Chairman, I move that the nominations be closed. [Laughter.]

Carried.

The CHAIRMAN. How will you have this vote cast, gentlemen?

Mr. PIERCE. Ayes and noes.

Mr. IVINS. Mr. Chairman, there being but one nominee before the house, I move that John Henry Smith be declared president of this assembly by acclamation.

Seconded by a number of delegates.

Mr. VAN HORNE. Mr. Chairman, and gentlemen of the Convention, it does not seem to me that that ought to be the method of electing a presiding officer for such a solemn body as this. I think the roll should be called and each man's vote taken, and that the

records show in writing that as the name was called each one voted.

The CHAIRMAN. It has been moved and seconded that the rules be suspended and that John Henry Smith be declared permanent president of this Convention by acclamation. Those in favor of the same will say aye; contrary no.

The ayes seem to have it.

Mr. PIERCE. Ayes and noes.

The CHAIRMAN. Mr. Clark, call the roll, please.

Mr. HART. Mr. Chairman, was the vote passed?

What was the judgment of the chair on the motion that we vote Mr. Smith in by acclamation? I understood that motion passed.

The CHAIRMAN. It was a very faint acclamation and the ayes and noes are called for.

Mr. PIERCE. I called for the ayes and noes on the motion to sustain the rules.

Mr. IVINS. Mr. Chairman, I would like to suggest that it is very unusual that time be occupied in calling the roll for the determination of a question of this kind. If there is any doubt, in the mind of the gentleman, as to the result of the vote on my motion, it would be a very easy matter in a moment to ask for a division of the house and let the members indicate their vote by rising. I think that this idea of calling the ayes and noes on a question of that kind is very unprecedented.

The CHAIRMAN. Will you amend the motion to that effect?

Mr. IVINS. Yes, sir, I move that a rising vote be called as an amendment to the motion that has been made.

Seconded.

The CHAIRMAN. Now, let me understand—is this on the absolute vote or is it on the—

Mr. IVINS. It is on my motion that John Henry Smith be declared by acclamation to be the permanent president of this assembly.

The CHAIRMAN. You have heard the motion, gentlemen, those in favor of John Henry Smith for president will stand up.

The secretary pro tem. announced an affirmative vote of ninety.

The CHAIRMAN. There being ninety in the affirmative, I believe it is not necessary to call the noes.

Mr. John Henry Smith is declared permanent president. Mr. Squires and Mr. Roberts, will you conduct Mr. Smith to the chair?

The gentlemen mentioned conducted Mr. Smith to the chair.

Chairman GOODWIN. Gentlemen of the Convention, I have the honor to present your permanent president, Mr. John Henry Smith. [Applause.]

President SMITH. Gentlemen of the Convention: It will be impossible for me to find words to express to you the feelings that are within my breast. For many years it has been a dream of mine that the day would yet come when the people of the Territory of Utah, burying their past differences, would strike hands upon common ground, and as lovers of the same great commonwealth put their hands to the plow of statehood and endeavor to bring the people of that commonwealth into the enjoyment of every right and every liberty that any citizen within the confines of our great Republic does enjoy. I presume that in the efforts of the past there has been a Providence without doubt guiding the destinies of this commonwealth.

I have no doubt that in the future that same Providence, who understands the conditions of its children throughout the world, will guard and guide the interests of this commonwealth and will enable its sons and its daughters to fully magnify the responsibilities that shall be placed upon them when they shall arrive at the full stature of statehood, having performed their part in regard thereto.

I congratulate you gentlemen upon

the labor that lies before you. Six times, if my memory serves me right, in the past an effort of this kind has been made. Conventions have assembled, have discharged the sacred duties placed upon them and have made an effort to place themselves in a position that they could exercise the rights that are inherent in those within a state government, but until the present moment that boon has been withheld. There is no bitterness in me so far as that is concerned, in regard to any of these experiences of the past. We meet upon this floor on common ground, common lovers of a common country, and believers in the labors and administrations of that body of great men, who brought about the liberties of the people of the United States, who love the instrument that came through them, and which has been the palladium of the liberties of the American people, and which is more sacred to any American than life itself.

I doubt not but that every gentleman who is assembled within the confines of this building, as a delegate sent to this Constitutional Convention, feels this in the innermost recesses of his heart, that if his country was in danger or if that instrument of their liberties was in danger, life and everything else would be put upon the altar, looking to the preservation of the same and the maintenance of that government which has become dear to us and which has given to us so many blessings pertaining to life.

My friends, I trust that the experience through which we have gone may be a lesson of profit to every one of us. Let us take these matters under consideration and weigh them in the light of judgment and wisdom, concerning the well being of the commonwealth in which we reside, studying no man's interest but the interest of the whole.

Our people having trusted us here with the grave responsibility of presenting to them for their consideration a funda-

mental law, under which they expect to live, under which their children and their children's children in all likelihood may live, they look to us to discharge this duty in honor before our country, in honor before our God, in honor before them that sent us here, and in honor to ourselves, who are their representatives, and who realize in some measure the vast responsibility that attaches to this exalted station.

My friends, I trust that in our deliberations there shall not exhibit itself that spirit of partisanship that would lead in any degree to improper, unwise, or inconsiderate feeling. We have fought the battle of the past, we have met each other as men upon the arena, we have done our best to accomplish our view in these matters, and considering all the conditions that surround us, I believe it is the sacred duty of every man who has been sent here to see to it, that so far as is possible we shall work in unison to the accomplishment of one great purpose, and that purpose is presenting to our people a Constitution that shall receive their approval and that shall stamp the men who made it as men of worth, as men of honor, as men who love their country, who love their State, who appreciate the blessings of liberty, and who propose, so far as lies in their power, to exhibit every fairness and justice in their conduct in the performance of that sacred labor.

We have before us a great work to do; we have to consider the conditions of our Territory; we have to consider its resources; we have to consider our ability to perform this duty, in every way, and the ability of the people to fulfill the obligations that we shall present to them and upon which they shall pass.

These matters we have got to consider in the light of judgment and of wisdom. We are not a wealthy people. While we have a goodly land and some day in the future it will have a wonderful population, we are in that condition at the present time that in the con-

sideration of each and every problem that shall come before us in the interest of the government that we seek to establish, we must do it upon the principle of striving to protect the people and preserve them from enormous burdens of taxation.

This duty lies within us, and in the consideration of these matters, everything that can be done that shall tend to enhance the development of our soil—improve every condition, benefit the people, open the doors for the incoming of hundreds that may press upon our soil; the storage of the waters that the lands may be utilized for the purpose of farming, and the opening up of our mines, and the use of the precious metals, should be done. Every condition, every position, everything that would enhance these interests, caring for our flocks and our herds, looking to the advancement of everything that pertains to the well being of our people, I believe lies near to the heart of every man who has entered this assembly, having been sent here by an honest and an upright constituency.

My friends, I trust that we will consider these things, wisely and prudently, that when our work shall be done there shall not be a regret in any breast or in any mind, but with a firm and fixed purpose we stand by the principle of right, the principle of justice, the principle of patriotism, the principle of the love of them that sent us here, and the principles of everything that tends to ennoble and lift up man by giving the broadest liberty and opening up to him in every way the amplest opportunity to utilize the powers with which the great God of Heaven has blessed him.

Thanking you, my friends, for the honor conferred upon me and realizing my weakness, so far as that is concerned, in this position, and desiring to have your full support in seeking to discharge this duty, recognizing the importance of that duty and feeling that if there was aught in the way that should inter-

fere with the accomplishment of this work, the upbuilding of this commonwealth, by act of mine, I should be as ready and as willing as man could be to step away from this position, which you have tendered me, and leave it open to any man, so far as that is concerned, who might desire to occupy the same; and realizing that every man that is congregated here is amply capable and able to discharge this duty, I trust that in the Providence of Our Father in Heaven that you and I will be blessed in our efforts to accomplish this good work and that the commonwealth that we establish, the Constitution that we shall present to the people, will be a credit to you, and that every one of us will look back in the future days of our lives, and rejoice in the fact that the people of the land trusted us as their representatives, to present to them something that should be the palladium of their liberties, of which they with us will be proud in guarding up to the last moment of their lives.

E. W. Tatlock thereupon asked and obtained permission of the Convention to speak.

Mr. TATLOCK. Mr. President, and gentlemen of the Convention:

I am proud to salute a man who was born in the Territory, whose motto was "Our liberties we prize and our rights we will maintain."

On my way to the building this morning I was accosted by a number of your friends and my friends, the friends of this Convention, who imposed upon me the very pleasant and delicate duty of asking you to accept from them an emblem of your authority during the continuance of this Convention.

The article which I present to you or will present to you is one of domestic manufacture; it was made by one of the good citizens of Salt Lake City. I will mention the parts of this.

The handle, Mr. President, as you will observe, is very slender; a larger one it was believed wouldn't be necessary.

The temper of the Convention is such as ought to and doubtless will prevail during its deliberations.

This handle is made of paradise wood, typical no doubt of the harmony that will prevail in this Convention. [Applause.]

The wood was grown in the Temple square in this city. The body of the gavel is made from mountain mahogany, grown on these grand hills surrounding this city. In the center of this body, at one end, is a piece of wood taken from the keel of an English vessel, the Augusta, which was sunk off the Atlantic coast during the Revolutionary war by the guns of our Revolutionary fathers.

That ship lay imbedded for a period of more than eighty years. It then was resurrected by American ingenuity and genius.

It was thought by the maker of this and his friends that the destruction and burial of that ship would serve to remind some folks at least of the doom that might await tyrants and oppressors, leaving off that part of it, even the resurrection period, after eighty years.

On the reverse end of this gavel is a piece of metal which suspended the bell which first proclaimed the freedom of the American people; that was secured by the maker years ago.

It is believed that when this gavel finally falls at the conclusion of the labors of this Convention, that it will be a proclamation to the people of this Territory giving to them, as did the old liberty bell, freedom and liberty, to this grand people, a grand State which is to be as grand as there is in America.

With the best wishes of your legions of friends, please accept this emblem of your authority. [Applause.]

The PRESIDENT. Gentlemen of the Convention, in your behalf I accept from the hands of our friend this gavel and trust that we may be as sturdy as the oak from which part of it is made, as

true as the bell that rung out in the day of our need; and having thus been true and thus faithful, that our friends who presented it, with ourselves, in the day of paradise, may find ourselves there. [Applause.]

What is the further pleasure of the Convention?

Mr. CANNON. Mr. Chairman and gentlemen of the Convention, I desire to introduce the following resolution and move its adoption:

Resolved, that we elect the following permanent officers:

One chief clerk.

One sergeant-at-arms.

One watchman and janitor.

One messenger.

One enrolling and engrossing clerk.

One official stenographer and typewriter.

Two pages, and

Three committee clerks.

Motion seconded.

Mr. KERR. Mr. President, I move to amend the resolution by omitting the three committee clerks.

Amendment seconded.

Mr. SQUIRES. Mr. President, I understand that this committee appointed by the Convention yesterday to fix upon the number of committees which we shall need, during the progress of the Convention, is about ready to report, and I should judge that before we ruled out the election of three committee clerks, it would be wise to get the report of that committee and ascertain how many committees we have got to handle. I do not consider that it is possible for this Convention to get along without committee clerks, especially if we have twenty-five or twenty-six committees.

Mr. ROBERTS. Mr. President, I favor the adoption of the amendment, as I understand it, to the original motion, that we eliminate the committee clerks. I don't understand the object of the committee clerks; if it is supposed that three committee clerks will do the committee work for some twenty-five or twenty-six committees, I think three are abso-

lutely insufficient and I know of no three committees that should be selected out of the number or that could be selected out of the number and given that favor over and above other committees.

It seems to me, sir, that the officials of this Convention, or the officers of the Convention, should be kept down to the necessities of the Convention, and since the appointment of three committee clerks wouldn't be sufficient to operate for all the committees, I believe that each committee will be able to do its own clerical work from among the members of the committee.

Mr. KERR. Mr. President, I think that, as has been suggested, it would be impossible for three clerks to do the work for twenty-five or twenty-six committees, which are to be appointed, because many of these committees will be in session at the same time and it wouldn't be possible for these three clerks to attend to the duties that will devolve upon them.

Furthermore, while it is true that legislative assemblies require committee clerks, as in legislative assemblies bills are being introduced from time to time, it is much more necessary that they have these committee clerks, than in a Convention of this kind where the committees would have under consideration a particular article.

I don't believe that this Convention should vote for a large number of committee clerks—a sufficient number to do the work. If it is desired that committee clerks attend to that work, as three would be insufficient, I am in favor of the committees doing the work.

I think that in each committee there will be those who can attend to this work without our being to the expense of paying committee clerks.

Mr. RICKS. Mr. President, I favor the original motion, for this reason: while I believe that each committee should have its own secretary, I believe

too that there ought to be clerks, to prepare the reports of those committees after they leave the hands of the committee, that they may be presented to this assembly in proper shape, and I think that every member of this Convention will agree with me that there is a great deal of work that will have to be done on typewriters; at least, it is the purpose of this original resolution, as I understand it, to employ typewriters for that purpose—to prepare the reports of the committees after they have left the hands of the committees and before they are presented to this assembly.

Mr. THURMAN. Mr. President, I think that there is one reason why we should support the amendment in this case. At any rate we do not now need committee clerks. We do not know whether we will need them at all or not. Should we find that such are a necessity in the progress of our work, we can then appoint them and save something in the compensation. The point suggested by the last gentleman on the floor that typewriters might be needed may be true, but that is not involved in this question. The question here is the appointment of clerks, and they may not be typewriters at all, if appointed.

I can conceive that one or two good typewriters later in the session might be of great use to this Convention, but I believe that we ought to adopt this amendment and leave the question of appointing clerks to rest awhile, until we find a necessity for those clerks.

If it should be true that every committee appointed here will have a man who can do clerical work or more than one, and we can economize and save something in the expense of this Convention, certainly that is a consummation devoutly to be wished by every member here. We don't know just how long our work will require us—how long a time it will take. We know this

much, that we are limited in the amount of money we have to expend.

I favor the amendment for the reasons suggested by others as well as those.

Mr. SQUIRES. Mr. President, as I understand it, there is nothing in this motion which goes to the election of these clerks to-day, and I do not believe that it is contemplated by the maker of the motion that those clerks should be selected to-day. We simply provide by this motion for the permanent officers of the Convention to that point, and I see no possible objection to resolving now that we will at some time employ three committee clerks, and I am willing to have for my part embodied in the resolution that these three clerks shall be typewriters.

Mr. CANNON. Mr. President, and gentlemen of the Convention, as the mover of this resolution, I desire to speak for a moment in its behalf. Several of the gentlemen who have spoken in opposition to the resolution and in favor of the amendment have presented two points. The first because we cannot have twenty-five or the requisite number of clerks, don't let us have any.

Second, that it would be a matter of economy to not have clerks. Now, Mr. President and gentlemen, in this matter it is designed to have enough clerks that those clerks, placed at the disposal of the different committees at different times will probably do all the work.

They certainly should be typewriters, and if possible stenographers. There is no reason why we should be penny wise and pound foolish in this matter. The members are paid much higher than the amount that would be paid to these clerks and the clerks would serve various committees.

When one committee is through with a clerk he can go to the next and so on, and by a friendly arrangement among the committees and the respective chair-

men the clerks can be constantly employed.

Another thing, our friends yesterday were very anxious to get down to business. What is the matter with getting down to business to-day? If we have these committee clerks, if the various committees are appointed, if work is assigned to them we can commence at once and the expense of the Convention being something like five hundred dollars per day, don't let us wait to the closing hours before we commence to employ the help that we absolutely need.

The question on the amendment being put and a division called for, was lost by a vote of 44 ayes to 51 noes.

Mr. ROBERTS. Mr. President, I move an amendment to the resolution to this effect, that the question of an official stenographer be referred to a committee of five for the purpose of consideration.

Mr. WELLS. I second the motion.

Mr. CANNON. Mr. President, and gentlemen of the Convention, I think that that would not be necessary. The same object would be attained if the gentleman would wait until this is adopted, and in naming an official stenographer, if he so desire it could be referred to a committee of five. We certainly want an official stenographer.

Mr. ROBERTS. It seems to me that if the gentleman offering the resolution contemplates the reference of the matter of the official stenographer to a committee, if he contemplates that in his resolution, it seems to me, sir, that the proper method of proceeding would be to refer the whole question as to the desirability of having an official stenographer. I am of the opinion that that is a question in the minds of gentlemen in this Convention, and therefore, my amendment contemplated the consideration of the desirability of a stenographer at all, and not merely the suggestion offered by the gentleman who last spoke on the question as to who

the stenographer should be. My amendment involves the consideration of the desirability of the stenographer.

Mr. VARIAN. I would like to suggest to Mr. Cannon that the resolution does not provide for the compensation of the minute clerk and the three committee clerks and possibly some other officer whose compensation is not fixed by statute. What is your pleasure about that?

Mr. CANNON. Mr. President and gentlemen of the Convention, I would state that I thought that later on a committee would probably be appointed to consider this subject of compensation.

Most of the officers named, as Mr. Varian suggests, are provided for by statute. The others, I think that a committee appointed by the house would be better able to investigate the qualifications of those who were employed and the compensation they should receive than it would be to name it and then not know who would fill the office.

Mr. WELLS. Mr. President, I seconded the motion of Mr. Roberts to refer this question or to eliminate from this resolution of Mr. Cannon's, the question of employment of an official stenographer and typewriter. I think that the committee ought also to be clothed with power to consider the advisability of employing an official stenographer and also of selecting the stenographer. I am in favor of that.

Mr. BUTTON. Mr. President, I would like to know, is this an amendment to refer to the committee the question whether it is best to hire a stenographer or not?

The PRESIDENT. I presume that is it.

Mr. BUTTON. I want to know if that is the meaning of this amendment.

Mr. ROBERTS. That is it, sir.

The roll being called on the question of the amendment the vote was as follows:

AYES—48.

Barnes
Boyer

Lewis
Low, William

Brandley
Buys
Call
Coray
Corfman
Cunningham
Emery
Engberg
Evans, (Utah)
Farr
Francis
Hammond
Halliday
Howard
Hughes
Hart
Heyborne
Ivins
Johnson
Kerr
Kimball, Salt Lake
Lemmon

Low, Peter
Low, J. P.
Maeser
Maloney
Maughan
McFarland
Murdock, Wasatch
Nebeker
Partridge
Peters
Raleigh
Roberts
Robinson, Kane
Robison, Wayne
Sharp
Snow
Spencer
Thatcher
Thoreson
Thorne
Warrum
Wells.

NOES—50.

Adams
Allen
Anderson
Bowdle
Button
Cannon
Chidester
Christianson
Clark
Crane
Creer
Cushing
Driver
Eichnor
Eldredge
Gibbs
Goodwin
Green
Haynes
Hill
Hyde
James
Jolley
Keisel
Keith

Kearns
Lambert
Larsen, L.
Larsen, C. P.
Lund
Mackintosh
Miller
Morris
Moritz
Murdock, Beaver
Murdock, Summit
Page
Peterson, Grand
Peterson, Sanpete
Ricks
Ryan
Shurtliff
Squires
Stover
Symons
Thompson
Thurman
Van Horne
Varian
Williams.

The amendment was declared lost.

Mr. SQUIRES. Mr. President, I move

to amend the resolution by providing that the three committee clerks shall be typewriters.

Seconded.

Mr. CANNON. Mr. President, with the consent of my second I will accept that amendment.

Mr. THATCHER. Will you gentlemen kindly insert the words, "lady typewriters?"

Mr. SQUIRES. I should be very glad Mr. President, when we come to select those clerks if there are lady candidates to give my vote for them.

The resolution was then adopted.

Mr. PIERCE. Mr. President, I move you that we proceed to elect our officers as this resolution contemplates.

Carried.

Mr. EICHNOR. Mr. President, for chief clerk of this Convention, I take great pleasure in nominating Mr. Parley P. Christensen, of Tooele County.

Mr. ANDERSON. I second that nomination.

Mr. THATCHER. Mr. President, there being no further nominations, I move that we suspend the rules and elect him by acclamation.

Carried unanimously.

The PRESIDENT. I would appoint Mr. Eichnor and Mr. Thurman to bring Mr. Parley P. Christensen forward to his seat.

Mr. PIERCE. Mr. President, wouldn't it save time to elect all that we are to elect and have them sworn in at the same time?

The PRESIDENT. Yes; we will let the temporary secretary then retain his seat.

Mr. VARIAN. Mr. President, I move that the candidates of gentlemen for the respective offices in the resolution be named at once, and one vote taken on the whole. We will save half or three-quarters of an hour by doing so. I make that motion in perfect good faith. I understand there are no opposing candidates at all.

Carried.

Mr. DRIVER. I present the name, Mr. President, of Mr. C.S. Rapp, of Weber County, as minute clerk.

Mr. SQUIRES. Mr. President, in order to put them in a way that we can get them all at once, I respectfully request that Mr. Cannon rise and read the names of those candidates that were elected. [Laughter.] If we are going to save time, Mr. President, that is the best way to save time.

Mr. ELDREDGE. I move, Mr. President, that we eliminate from that the committee clerks for the present.

Mr. VARIAN. Mr. President, that motion has already been passed upon.

The PRESIDENT. That motion has been passed upon.

Mr. ELDREDGE. I will then move Mr. President, to reconsider the motion; I voted in the affirmative.

Seconded.

Mr. VARIAN. If the gentleman voted in the affirmative, he is not entitled to reconsider, because that motion was lost on a negative vote.

Mr. SQUIRES. Mr. President, as a matter of fact there are no candidates before this Convention this morning for those three places, consequently the motion would not be necessary. [Laughter.]

The PRESIDENT. You are out of order, Mr. Eldredge.

Mr. ELDREDGE. Mr. President, I voted in favor of the adoption of that motion; that they all be presented at once; now, then, in order to get it before this house that they may eliminate the committee clerks I will move to reconsider the motion, which was on the adoption.

Seconded.

Mr. THURMAN. Mr. President, there are some of us here who for some reason did not have notice of a caucus yesterday afternoon. If some gentleman who was there will state what they did there we can probably adopt it as a whole. [Laughter.]

The PRESIDENT. As I understand

the situation at the present time, it is, Mr. Eldredge moved to reconsider the question of passing upon this at once, having voted in favor of it.

Mr. WILLIAMS. Mr. President, may I ask a question?

Mr. THATCHER. I move as an amendment to that we have a recess of forty-five minutes in order that we may prepare the names of those three.

Mr. WILLIAMS. Mr. President, I would like to ask Mr. Eldredge what his intention is, how he intends to provide for a stenographer and clerk. Does he intend following this up with another motion to name them separately? If he does I have no objection to it.

Mr. ELDREDGE. My object then was to follow this up with a motion so far as it pertains to all except the committee clerks and then handle that question subsequently.

Mr. VARIAN. Mr. President, as the mover of the original motion, I ask then to solve this question, the unanimous consent of the Convention to leaving out the committee clerks at this time. That will leave the resolution simply to elect all the others at once, leaving the committee clerks out.

Mr. BUTTON. Mr. President, I would like to have Mr. Varian, as mover of that motion, leave out the stenographer too.

Mr. VARIAN. No; that has been decided. I don't care to do that. I am in favor of a stenographer. I think it is useless to dwell on that subject.

Mr. BOWDLE. Mr. President, I move you to amend the resolution offered by the gentleman from Salt Lake by striking out the word "stenographer."

Mr. ROBERTS. I second the amendment.

Mr. VARIAN. Mr. President, I arise to a point of order. A motion was made by me and carried by the house to that effect that all of the officers named in the resolution adopted upon the motion of Mr. Cannon, should be elected at once.

Now in order to meet the objection of Mr. Eldredge, I suggest that by unanimous consent that motion stand with the exception that the three committee clerks should be eliminated. There is no motion that I made. It is simply by unanimous consent of this house that they will treat that resolution as adopted in that way.

Now, if the gentleman wants to amend that resolution of Mr. Cannon's, he must move a reconsideration of the vote by which it was adopted. He can not interject that motion upon a request of this kind, which depends upon the unanimous consent of the house as to how they will treat the resolution, which they have already adopted. It seems to me that if I am correct, my position is clear.

Mr. VAN HORNE. Mr. President, I move you to reconsider the resolution which was adopted, saying that we should elect all these officers at once.

Seconded.

Mr. CANNON. Mr. President, I arise for information. Is the resolution which you desire to reconsider the one offered by Mr. Varian?

Mr. VAN HORNE. Yes, sir.

Mr. ROBERTS. Mr. President, for information, I would like to know if the question before the house is upon the unanimous consent for the consideration of Mr. Varian's resolution to eliminate the three committee clerks?

Mr. VAN HORNE. Mr. President, I understood that was adopted. Mr. President, I will say for the benefit of the gentleman, the object of reconsidering this is that while we voted to have a stenographer—the employment of a stenographer is the greatest single expense that I know of connected with this Convention; it takes the place of two or three or perhaps four of the best offices in the gift of this Convention, in the line of expense—perhaps some arrangement can be made, if time is given, by which the salary of the stenographer can be fixed so as to

save this Convention an expense that is greater than they might think they were able to bear; it is for that purpose and the giving time to consider the question to who the stenographer shall be that I ask that that resolution be reconsidered.

MR. ROBERTS. Is then the question, Mr. President, upon the unanimous consent to eliminate the three committee clerks?

The PRESIDENT. Yes, sir; as I understand it.

Mr. RICKS. Mr. President, as I understand the motion of Mr. Van Horne, it is simply to reconsider whether we shall vote upon all these officers at once or vote upon them separately; is that the question?

Mr. VAN HORNE. It is.

Mr. THURMAN. Mr. President, upon the motion of Mr. Van Horne I wish to make this remark: The motion to elect these men or parties in a brood instead of singly was made, as I take it, in the interest of facilitating business. We have spent long enough time here to have selected them one at a time, if we had gone on in the regular order. I favor now that we get back to the point where we can do business in the right way—adopt this resolution and elect these men one at a time.

Mr. VARIAN. Mr. President, in view of the fact that a motion was made to reconsider I will withdraw mine.

The motion of Mr. Van Horne was then carried unanimously.

Mr. RICKS. Mr. President, I move that we proceed to elect the remaining officers one at a time.

SEVERAL DELEGATES. It is not necessary.

Mr. DRIVER. I arise to put in nomination Charles S. Rapp, of Weber County, for minute clerk.

Nomination seconded by a number of delegates.

Mr. RALIEGH. Mr. President, I beg leave to introduce or recommend the

name of Mr. Milando Pratt, as engrossing and enrolling clerk.

Mr. VAN HORNE. Mr. President, I arise to the point of order that that is not the order of business.

The point of order was sustained.

Mr. DRIVER. * Mr. President, I move that the rules be suspended and that we elect Mr. Charles S. Rapp by acclamation.

Carried.

Mr. Charles S. Rapp was then elected minute clerk by acclamation.

Mr. LUND. Mr. President, and gentlemen of the Convention, I nominate Mr. R. Clawson, of Sanpete, for the position of sergeant-at-arms.

Mr. BUTTON. I move that the rules be suspended and Mr. Clawson elected by acclamation.

Carried.

Mr. R. Clawson was then elected sergeant-at-arms, by acclamation.

Mr. LAMBERT. Mr. President, I take pleasure in nominating Mr. Bruce Johnson for the position of watchman and janitor.

Mr. PIERCE. I move to suspend the rules and elect by acclamation, Mr. President.

Mr. JAMES. Mr. President, I move that the rules be suspended in all the nominations, not suspended in each case.

Mr. VAN HORNE. Mr. President, I second the motion to suspend the rules in this case.

Mr. IVINS. Mr. President, if the president will permit me to suggest, I regard it as unnecessary to put this question, whether the rules will be suspended unless there is some objection. If there is a motion to suspend the rules, the chair might say, unless there is an objection, the rules are suspended and go right on and elect these officers.

Under suspension of the rules Mr. Bruce Johnson was elected watchman and janitor by acclamation.

Mr. KEARNS. Mr. President, I want

to suggest the name of Mr. Thomas Watson, of Wasatch, for messenger.

Under suspension of the rules, Mr. Thomas Watson was elected messenger by acclamation.

Mr. RALEIGH. Mr. President, I desire to renew my nomination of Mr. Milando Pratt for engrossing and enrolling clerk; I have known him all my life; he has had a great amount of experience, has held such a position in legislatures and other places in this Territory, and I am satisfied that this body of men will find him capable.

Mr. ELDREDGE. Mr. President, I arise to place in nomination for that position the name of Joseph A. Smith, of Cache County.

Mr. ANDERSON. Mr. President, I second that nomination.

Mr. KIESEL. Mr. President, I desire to know for information which of these is on the slate.

Mr. EICHNOR. Smith.

The PRESIDENT. I am not prepared myself to say.

Mr. NEBEKER. Mr. President, I arise in support of the nomination of Mr. Pratt. As the Convention has proceeded as a sort of a ratification meeting, at this point I shall try and break the monotony by voting for Mr. Pratt.

Mr. FARR. Mr. President, I haven't the pleasure of knowing about this slate business. I have nothing to say about that, but Mr. Pratt I am acquainted with, he has been a good faithful servant in days of the past and I know too he is needy of a job and he is worthy and competent and I second the motion.

Mr. ANDERSON. Mr. President, I can say in behalf of Joseph A. Smith, that he is well qualified and a good, competent man and will fill the place with honor and ability if elected.

Mr. CHRISTIANSON. I move you, Mr. President, the nominations close. Seconded.

Mr. KIESEL. I place in nomination, Mr. President, Mr. Newton Farr from

Ogden, Weber County. He has all the qualifications that have been named for the other gentlemen, besides that he is a good Democrat.

Mr. LOW (Câche). I have this to say, Mr. President, in favor of the nominee from Cache County; he is the slated member for this position, he is the gentleman from Cache and should be supported by this Convention.

Mr. THURMAN. Mr. President, I regret to say that we have come to the dividing roads, and I will have to part company with the caucus on this question. I have stood by the caucus faithfully, manfully I trust, although they omitted by an oversight yesterday to notify me that the caucus was going to meet.

The PRESIDENT. They did the same with me.

Mr. THURMAN. But I shall support the nomination presented by the gentleman from Ogden, Mr. Kiesel, of Mr. Farr.

Mr. CHRISTIANSON. Mr. President, I move that the nominations close.

Mr. CORAY. Mr. President, I understand we suspended the rules here to apply to each nomination.

The PRESIDENT. Until objection was made, Mr. Coray.

Mr. MALONEY. Mr. President, the proper thing to do is to call the roll, when there are three candidates.

The PRESIDENT. The question is, shall the nominations close?

Carried.

The PRESIDENT. The nominees before this Convention are Milando Pratt, Joseph A. Smith and Newton Farr.

Mr. CRANE. Mr. President, I move that as the roll is called each man names the candidate he desires for this position.

Mr. PIERCE. That is correct.

The following was the vote on the roll call:

Mr. ADAMS. Smith.

Mr. ALLEN. Smith.

Mr. ANDERSON. Smith.
 Mr. BARNES. Pratt.
 Mr. BOWDLE. Smith.
 Mr. BUTTON. Smith.
 Mr. BUYS. Pratt.
 Mr. CALL. Pratt.
 Mr. CANNON. Smith.
 Mr. CHIDESTER. Smith.
 Mr. CHRISTIANSON. Smith.
 Mr. CLARK. Smith.
 Mr. CORAY. Smith.
 Mr. CORFMAN. Pratt.
 Mr. CRANE. Smith.
 Mr. CREER. Pratt.
 Mr. CUNNINGHAM. Pratt
 Mr. CUSHING. Smith.
 Mr. DRIVER. Smith.
 Mr. EICHNOR. Smith.
 Mr. ELDREDGE. Smith.
 Mr. EMERY. Smith.
 Mr. ENGBERG. Pratt.
 Mr. EVANS (Utah). Pratt.
 Mr. EVANS (Weber). Farr.
 Mr. FARR. Pratt.
 Mr. FRANCIS. Pratt.
 Mr. GIBBS. Smith.
 Mr. GOODWIN. Mr. President, may I be permitted to explain my vote?
 The PRESIDENT. Yes, sir.
 Mr. GOODWIN. It was represented to a few of us that Cache County had set its heart on Mr. Smith; that if he were not nominated for this position it would go Democratic forever. As missionary work I vote for Mr. Smith. [Laughter.]
 Mr. GREEN. Smith.
 Mr. HAMMOND. Farr.
 Mr. HART. Pratt.
 Mr. HAYNES. Smith.
 Mr. HALLIDAY. Pratt.
 Mr. HEYBORNE. Smith.
 Mr. HILL. Smith.
 Mr. HOWARD. Pratt.
 Mr. HUGHES. Farr.
 Mr. HYDE. Smith.
 Mr. IVINS. Pratt.
 Mr. JAMES. Smith.
 Mr. JOHNSON. Pratt.
 Mr. JOLLEY. Smith.
 Mr. KEISEL. Mr. President, I would

like to explain my vote; I vote for Mr. Farr for the same reason that Mr. Goodwin voted for the other gentleman—that Cache County may remain Democratic.

Mr. KEITH. Smith.

Mr. KEARNS. Smith.

Mr. KERR. Pratt.

Mr. KIMBALL (Salt Lake). Mr. President, while these other gentlemen are voting on the candidates, I would like the privilege to say and I also ask pardon of the gentlemen for breaking the slate, but at the same time, Mr. Pratt—

Mr. ELDREDGE. Mr. President, let me ask the gentleman, if he knows whether it is broken or not.

Mr. KIMBALL (Salt Lake). I will take chances on that. Mr. Pratt is a good Democrat but while we do not ask any favors, at the same time, I will ask the honorable gentlemen who vote after me to sustain this gentleman.

The SECRETARY. How do you vote?

Mr. KIMBALL (Salt Lake). Pratt.

Mr. LARSEN, L. Smith.

Mr. LARSEN, C. P. Smith.

Mr. LEMMON. Pratt.

Mr. LEWIS. Farr.

Mr. LOW, WILLIAM. Pratt.

Mr. LOW, PETER. Smith.

Mr. LOW, J. P. Pratt.

Mr. LUND. Smith.

Mr. MAESER. Smith.

Mr. MACKINTOSH. Smith.

Mr. MALONEY. Farr.

Mr. MAUGHAN. Farr.

Mr. McFARLAND. Smith.

Mr. MILLER. Smith.

Mr. MORRIS. Smith.

Mr. MORITZ. Smith.

Mr. MURLOCK (Wasatch). Pratt.

Mr. MURDOCK (Summit). Smith.

Mr. NEBEKER. Mr. President, the reason that I vote for Mr. Pratt is not because he is a Democrat, but because I know Mr. Pratt; and am not acquainted with Mr. Smith, and I know

if Mr. Pratt were elected to this position he would be a most efficient officer.

Mr. PAGE. Smith.

Mr. PARTRIDGE. Pratt.

Mr. PETERS. Pratt.

Mr. PETERSON (Grand). Smith.

Mr. PETERSON (Sanpete). Smith.

Mr. PIERCE. Smith.

Mr. RALEIGH. Mr. President, I vote for Mr. Pratt; I didn't know his politics until they were announced by Mr. Kimball, but I vote for him because he is a man.

Mr. ROBERTS. Farr.

Mr. ROBINSON (Kane). Smith.

Mr. ROBISON (Wayne). Pratt.

Mr. RYAN. Smith.

Mr. SHARP. Pratt.

Mr. SHURTLIFF. Smith.

Mr. SNOW. Pratt.

Mr. SPENCER. Farr.

Mr. SQUIRES. Smith.

Mr. STOVER. Smith.

Mr. SYMONS. Smith.

Mr. THATCHER. Mr. President, I think I ought to give some reasons why I give my vote for the candidate of my choice.

In the first place, I am in perfect harmony with the observation of the president in regard to non-partisanship, and think in a body of this kind we ought to be able to rise above it. I think we have set an excellent example in that direction this morning, and as the honorable gentleman on the left stated he did a little missionary work, I want to give him a cue and it is this, that the Democrats of the north have carried their point, because they have been broad and generous to their political opponents, and as another evidence of that I must cast my vote for Mr. Smith.

Mr. THOMPSON. Smith.

Mr. THORESON. Pratt.

Mr. THORNE. Pratt.

MR. THURMAN. Farr.

Mr. VAN HORNE. Smith.

Mr. VARIAN. Smith.

Mr. WARRUM. Farr.

Mr. WILLIAMS. Smith.

Mr. MALONEY. Mr. President, I wish to change my vote from Mr. Farr to Mr. Pratt; and I will further say that I am authorized to withdraw the name of Mr. Newton Farr in favor of Mr. Pratt.

Mr. KIESEL. Mr. President, I would like to change my vote to Mr. Pratt.

The PRESIDENT. If there are no objections the name will be withdrawn.

Mr. THURMAN. Mr. President, if I may be—

Mr. EVANS (Weber). Mr. President, I want to change my vote to Mr. Pratt.

Mr. THURMAN. Same for me, Mr. President.

Mr. ROBERTS. Mr. President, I also wish to change my vote from Mr. Farr to Mr. Pratt.

Mr. VARIAN. As Mr. Farr has withdrawn his name, I move that all votes cast for him be given to Mr. Pratt.

Mr. EVANS (Weber.) I second the motion, that all the votes cast for Mr. Farr be given to Mr. Pratt.

Mr. CHRISTIANSON. Mr. President, I arise to ask a privilege of this body, and that is to be absent for sometime, having received word that one of my brothers died this morning.

The PRESIDENT. If there is no objection the gentleman will be granted his leave of absence.

Mr. BOYER. Mr. President, in my sympathy with the man who is bereft of a dear friend, in behalf of myself and others, I would like to know his name and county.

Mr. CHRISTIANSON. My name is Parley Christianson, of Mayfield, Sanpete County.

The SECRETARY. The vote is as follows before any changes were made.

Mr. Pratt, 28.

Mr. Smith, 55.

Mr. Farr, 10.

If the ten votes go to Mr. Pratt it makes him 38 and Mr. Smith 55.

The PRESIDENT. Mr. Smith is elected.

Mr. CRANE. Mr. President, I move that the rules be suspended and that

this Convention extend to Mr. Christianson of Mayfield, Sanpete County, their sincere condolence in his sad bereavement.

Carried.

Mr. KERR. I move we adjourn until 3 o'clock.

Mr. EICHNOR. No, no, let us finish.

Mr. JOLLEY. I suppose it is understood that Mr. Christianson is excused, is it not?

The PRESIDENT. Yes, sir.

Mr. EVANS (Weber). Has the chairman declared the vote?

The CHAIRMAN. There is a motion for adjournment, has there been a second to it?

Mr. KERR. If the vote has not been announced by the chair, I will withdraw the motion.

Mr. EVANS (Weber). A motion to adjourn is not in order pending an election. Mr. President, I now move that the election of Mr. Smith be made unanimous.

Seconded.

Lost.

The PRESIDENT. The next order of business is the election of one official stenographer and typewriter.

Mr. ROBERTS. Mr. President, it occurs to me that the nomination of official stenographer for this Convention is a matter of such importance and involves, as admitted by the gentleman on my right here, some time ago, such a question of expense, that I shall move you that the question of nominations for an official stenographer be referred to a committee of five appointed by the chair.

Seconded.

Mr. ROBERTS. I would have it understood, Mr. President, that that includes the consideration of compensation for the stenographer.

Mr. BOWDLE. Does that contemplate the employment of the stenographer by this committee of five?

Mr. ROBERTS. No, sir.

The PRESIDENT. Just a report

upon it—the compensation and all things attendant upon it.

Mr. BOWDLE. And make a report to this body?

The PRESIDENT. Yes, sir.

Mr. SQUIRES. I understand that this Convention has once voted against the motion made by Mr. Roberts when it came in the form of an amendment to the other motion and I hope that the same action will prevail at this time.

Mr. ROBERTS. I wish to inform the gentleman that the motion that was lost before was upon the consideration of having a stenographer at all. The motion now presented to the house is as to nominations and compensation for that position. This was not included in the previous question that was decided by this house.

Mr. SQUIRES. As I understand the order of business under which we are going, we are not considering compensation at this point, we are considering election and I am not prepared to vote for this resolution at this time.

Mr. HAYNES. I move, Mr. President, to pass the question of nomination of a stenographer and typewriter for the present, as a substitute for the motion of Mr. Roberts.

The PRESIDENT. There is no second to that.

Mr. VARIAN. I hope this motion of Mr. Roberts will not prevail; the question of the compensation as was suggested in answer to my inquiry in relation to these offices can be settled hereafter.

This Convention has now determined that it will have a stenographer. Let us name him and the Convention can fix the compensation afterwards. If there is any thought underlying in the Convention that we do not need a stenographer, it seems to me that the sooner we disabuse our minds of that impression the better it will be. We must have a stenographer. It is just as important to preserve the deliberations of this Convention almost as it is to have

a presiding officer. In this age of the world and with our manner and habits of doing business, and more particularly legislative business, it is impossible to get along without a stenographer. There will always be differences of opinion and of recollection as to how questions stand, as to what matters were disposed of, perhaps after days have elapsed, or at least a day, or even hours have elapsed. As a matter of convenience, as a matter of absolute necessity, we must have a stenographer.

Now, what is the use of waiting? I hope that this motion will not prevail, and that we will name the stenographer and leave the question of compensation to be determined hereafter.

Mr. THURMAN. A while ago when the question was before the Convention, whether or not this matter would be referred to a committee, I favored not referring to a committee the question as to whether we would have a stenographer or not. I favor a stenographer and was not willing to be bound by a committee's action upon that proposition. The motion failed to refer the question of having a stenographer at all, and it failed largely—I am satisfied that the failure was due to the suggestion made by Mr. Cannon from Salt Lake, that he favored the referring of the question as to who the stenographer should be to a committee. I know that I voted in the honest belief that the question of who the stenographer should be would be submitted to a committee of this house appointed by the chair, and I had the assurance of gentlemen on my right who are familiar with the proceedings of the caucus which took place in my absence that there was no stenographer slated by the caucus at all. That that was left open. Now I think it is a very proper subject to go to a committee and I state one or two reasons why. Everything else being equal the person who will do the work for the least money, who is equally efficient, ought to have

the work to do. We do not know—gentlemen who happened to be at the caucus may know who will do this work as well as anybody else for the least money, but I am not ready to vote upon that question. As has been suggested here, this is an officer that probably will cost four or five times as much as the other officers that we have been choosing here by our vote. It is a matter, therefore, of greatest importance. Let us refer it to a committee appointed by the chair who will consider the qualifications of the stenographers, who will put their qualifications to the test, and consider something in relation to the compensation to be paid them. Let that committee report to this house what they find the facts to be and then when they have reported to the house, the house can act with intelligence. Therefore, I favor the motion. I think we are entitled to it. I think that many of us who voted in good faith in the belief that a stenographer would not be named by this meeting to-day ought now to have the opportunity to have that matter referred.

Mr. JAMES. Mr. President, I agree with what Mr. Varian has said, every word. We have proceeded now for the third day with our business with volunteer work, and, as Mr. Varian has said to you, you might as well try to proceed with this Convention without a chairman as without a stenographer.

Mr. THURMAN. We all agree to that.

Mr. JAMES. Mr. President, and to attempt to go ahead without a competent stenographer would be a very bad feature of it, and we must or should in justice to our own interests select a stenographer without delay, and therefore I am in favor of settling this question now. Bring it before this Convention and let it be settled, so that we will go on with our work.

Mr. CANNON. Mr. President and gentlemen of the Convention, I think

that in all fairness, it would be well to have a committee consider this matter. I believe that they can do so and report to us and that we will be better satisfied with their report than if we were to receive nominations without considering the qualifications of those who are applicants. And if a committee of competent men is appointed, I think that in the end we will all be better satisfied with it. For this reason I favor the motion of Mr. Roberts.

Mr. IVINS. Mr. President, I move the previous question.

The previous question was ordered.

The motion of Mr. Roberts was then carried.

Mr. MALONEY. Mr. President, the committee on site and furniture is ready to report.

Mr. VARIAN. We are in the midst of another order of business, Mr. President.

The PRESIDENT. I will appoint Messrs. Wells, Roberts, Eldredge, James, and Evans, of Weber, as the committee on stenographer.

Mr. EVANS (Weber) Mr. President, I will ask to be excused from that on account of business I have out of the Convention. Otherwise I should be pleased to act.

Mr. GOODWIN. Mr. President, Mr. Evans is not in the house, he was excused this morning.

The PRESIDENT. Thank you; I will appoint in his place Mr. Thurman.

Mr. SYMONS. Mr. President, I arise to place in nomination for page, Mr. John H. Thorne.

Mr. SQUIRES. Mr. President, I nominate L. C. Camp, of Salt Lake, as page, and I move that the rules be suspended and that these two candidates be elected by acclamation.

Mr. KIESEL. Mr. President, I nominate Charles R. Pratt, of Salt Lake City.

Mr. SQUIRES. Mr. President, I withdraw my motion.

Mr. BOWDLE. Mr. President, I move that the nominations do now close.

Carried.

Mr. CANNON. Mr. President, I would ask to be excused by consent of the house for a couple of hours. I have an appointment.

Excused.

Mr. RICKS. Mr. President, I move that we proceed to vote upon these candidates by a rising vote, the two receiving the largest number of votes to be declared elected.

Mr. VAN HORNE. Mr. President, I move that we proceed to vote one at a time on these pages.

Mr. RICKS. I will withdraw my motion.

Mr. JOLLEY. Mr. President, I second the motion of Mr. Van Horne.

Carried.

On a rising vote, Messrs. Thorne and Camp were declared as pages by a vote of 70 and 61 respectively.

Mr. SQUIRES. Mr. President, I move that the officers-elect be brought to the bar of the house and sworn.

Mr. EICHNOR. And take their seats.
Carried.

Minute clerk, Rapp, sergeant-at-arms, Clawson, watchman, Johnson, messenger, Watson, and pages, Thorne and Camp, were thereupon sworn in by the president.

Mr. CRANE. Mr. President, the permanent organization being perfected, I desire to offer the following resolution:

Resolved by the Constitutional Convention of the Territory of Utah, now assembled that we do hereby adopt the Constitution of the United States.

Mr. EICHNOR. Mr. President, I move as a substitute the following:

Whereas, the organization of the Constitutional Convention, duly assembled for the purpose of framing a Constitution for the proposed State of Utah is now perfected; therefore, be it

Resolved, that we, the delegates of the Convention, for and on behalf of the people of said proposed State of Utah, do hereby declare that we hereby adopt the Constitution of the United States.

Mr. CRANE. I accept the amend ment, Mr. President.

Mr. MALONEY. Mr. President, I move to amend by saying: "And all the amendments of the United States."

Mr. EICHNOR. It is not necessary.

The PRESIDENT. That covers the ground.

The resolution of Mr. Eichnor was unanimously adopted by a rising vote. [Applause.]

Mr. RALEIGH. Mr. President, I move we adjourn until half past three.

Mr. GOODWIN. Mr. President, if the gentleman will withhold for a moment, I wish to explain that there was a committee sent out yesterday to investigate and suggest upon site and furniture for this house. If they might report then we might adjourn until to-morrow morning.

Mr. PIERCE. Mr. President, that committee is ready to report.

Mr. GOODWIN. There is one little matter; we haven't fixed about the chaplain.

Mr. VAN HORNE. Mr. President, I move you that the president of this Convention be authorized by the Convention to invite in daily some reverend gentleman to act as our chaplain.

Mr. KEARNS. Mr. President, I second the motion of Mr. Van Horne.

Mr. VARIAN. Mr. President, perhaps the gentleman will take a suggestion and add, "of the different denominations."

Mr. VAN HORNE. That was the purpose of the resolution, but I think we can safely leave that to our presiding officer.

Carried.

The committee on standing committees then presented the following report, which was read by the secretary:

March 6, 1895.

Mr. PRESIDENT:

Your special committee on standing committees recommend that this Convention have the following standing committees:

1. Rules and methods of procedure,

consisting of five, with president of the Convention as chairman.

2. Federal relation and compact, seven members.

3. Preamble and declaration of rights, eleven members.

4. Legislative, fifteen members.

5. Judiciary, fifteen members.

6. Executive, fifteen members.

7. Election and rights of suffrage, fifteen members.

8. Apportionment and boundaries, one from each county.

9. Education and school lands, eleven members.

10. Public buildings and state institutions, not educational, eleven members.

11. Water rights, irrigation and agriculture, fifteen members.

12. Municipal corporations, nine members.

13. Corporations other than municipal, fifteen members.

14. Public lands, seven members.

15. Revenue, taxation, and public debts, fifteen members.

16. Salaries of public officers, nine members.

17. Mines and mining, fifteen members.

18. Labor and arbitration, seven members.

19. Printing, three members.

20. Militia, five members.

21. Manufacture and commerce, seven members.

22. Ordinances, seven members.

23. Schedule, future amendments, and miscellaneous, nine members.

24. Accounts and expenses, three members.

25. Engrossing and enrollment, five members.

26. Compilation and arrangements, five members.

Respectfully submitted,
PIERCE,
Chairman.

MINORITY REPORT.

March 6, 1895.

The undersigned members recommend that the committee on apportionment and boundaries consist of fifteen members instead of one from each county.

PIERCE, Salt Lake.

B. H. ROBERTS.

J. N. PETERS.

AQUILA NEBEKER.

W. J. KERR.

W. E. ROBISON.

J. F. CHIDESTER.

D. B. STOVER.

Mr. VARIAN. Mr. President, I move the adoption of the report of the com-

mittee as modified by minority report.

Mr. VAN HORNE. Mr. President, I second the motion.

Mr. EICHNOR. Mr. President, I ask that they explain when they state a committee on compilation and arrangements, whether they mean a committee on revision.

Mr. VARIAN. Mr. President, I suggest there is a question before the house; I don't care to have this interjected in this manner.

By request, the secretary re-read the minority report.

Mr. VARIAN. Now, Mr. President, the majority report offers a committee of twenty-six on apportionment and boundaries. A committee of twenty-six would be unnecessarily large and unwieldy. Fifteen is certainly large enough. If we expect to have executive work done and for that reason, it seems to me that the suggestion of the minority of the committee is a very proper one. And there is another reason, the counties differ in population, and material wealth.

The proposition of the majority would allow my county, representing fifty or sixty odd thousand people with over a third if not half of the material wealth of the Territory, the same voice in the districting as the small counties with a few hundred people.

It is not fair on the face of it. This thing ought to be taken into consideration in a matter of so much importance as that. It goes down to the very right of representation and next to that of self government.

It seems to me that the house can see that in a moment. It is not fair to take a great county like Salt Lake, (let others speak for their own counties, I speak for mine), and put her upon an equality with San Juan or Sevier or any of those counties with a comparatively, and as to her, insignificant population, and I do not think the gentlemen ought to ask it.

Mr. JAMES. Mr. President, I am in

favor of the minority report. As Mr. Varian has well said, I think it should be considered.

Mr. KEARNS. Mr. President, I do not agree with the gentleman from Salt Lake who has spoken on the question. As Mr. Varian has said he is speaking for Salt Lake; I am speaking for the Territory at large. I think my county should have a voice in this matter and I think it is fair to give every county in this Territory a voice on it. I think this question should be discussed fully in the committee room and not here and that Salt Lake will get as fair a deal as anybody. I am in favor of each county being represented on that committee.

Mr. SNOW. Mr. President, I can not understand the position of the members in the committee who voted for the majority report, turning around and signing the minority report.

I was not the mover of the question or the motion that finally prevailed in the committee, but I seconded it, and I have waited for the mover of that motion to support his motion, but to my surprise I find that he has signed the minority report.

Mr. VARIAN. He was the chairman of the committee, he had to sign the report.

Mr. SNOW. Mr. President, usually the chairman of the committee signs the majority report.

Mr. PIERCE. Mr. President, the chairman signed the minority report for himself.

Mr. SNOW. Mr. President, I wish to say, that I do not understand that committees are appointed for taking advantage in favor of their constituents, and I do not think that they would necessarily do so, in this committee on apportionment and boundaries.

I think it is only fair that if this Constitutional Convention contemplates an apportionment and representation in senatorial and representative districts, it is nothing more than right that each

county should be represented in that committee. This Convention may delegate to the Legislature this apportionment or they may not.

They may incorporate in the Constitution the apportionment or representation itself; if so, I think it eminently proper that every county be represented on that committee.

I do not think that twenty-six is much more unwieldy than fifteen, and I do not think the cow counties will endeavor to take any advantage of Salt Lake or any other of these larger counties, because they might outvote them and because they have a large constituency to represent, but I think when you come to apportion and create representative and senatorial districts that you ought at least to have some member from the county that can tell you where the trails are.

You are not supposed in Salt Lake to know the needs or the necessities or the lines in Washington County or Sevier County, and all that we would like to be upon that committee for is by way of suggestion, not to be unfair, and I respectfully represent to you that you have it in your power in this Convention, if we are unfair there to you, to outvote us. I think it nothing more than fair to allow this committee to be composed of at least one member from each county. [Applause.]

Mr. CREER. Mr. President, I am in favor of the majority report. But I am opposed, Mr. President, to starting out at the threshold of this Convention upon a basis of sectionalism. I take it that every member here has just as much the welfare of the people of this Territory—of this commonwealth at heart, as a whole, as Mr. Varian would indicate that they would not have.

Mr. VARIAN. I would like to ask the gentleman a question, Mr. President.

Mr. CREER. If the point made by the gentleman from Salt Lake be true, it would necessarily have to follow in

every committee, because the amount of population, the amount of wealth, would be the same, and the same reason would follow that the greater representation from Salt Lake would have to be on each of those committees.

Now, this is an important question and it seems to me it would be proper and right to sustain and adopt the majority report in that respect, because those members are thoroughly acquainted with the Territory and with the geography and boundary lines and all this; and it seems to me they would be the proper ones to constitute that kind of a committee.

The Convention would then have the power to rectify it, if it is unfair, but I am opposed to starting out on sectional basis.

Mr. CHIDESTER. Mr. President, in the committee room, I voted for the majority report, but in considering this matter, I found that the committee was composed of one from each county. Therefore we outvoted these members who represented a large number of citizens.

In order that I might not appear unfair, I signed the minority report. Now, I do not understand that this Convention will change any county lines or anything of that kind and I believe that justice would be done in the matter.

That is why I favor the minority report in the last instance, and I am willing not to support that in order that we may give to them who represent more than we do a fair chance to be represented.

Mr. IVINS. Mr. President, I move an amendment to Mr. Varian's motion, to the effect that the report of the majority be accepted and adopted.

Seconded.

Mr. MURDOCK (Beaver). Mr. President, I object to the outside counties being called cow counties.

A division being called for on the

motion of Mr. Ivins to amend, it was carried by the following vote:

Ayes, 63. Noes, 23.

On motion the Convention then adjourned until to-morrow afternoon at 2 o'clock.

FOURTH DAY.

THURSDAY, 2 p. m., March 7, 1895.

The Convention was called to order by President Smith.

The roll was called.

The PRESIDENT. I will say that Mr. Thatcher asked to be excused on account of sickness in his family and was sent for.

I will state to the Convention that Bishop Scanlan was invited to be here in attendance and offer prayer but I have just within a moment received his letter of declination on account of sickness and I would ask Honorable Francis A. Hammond of San Juan County to perform that duty.

Mr. Hammond thereupon offered prayer in compliance with the request.

Mr. HOWARD. Mr. Robertson of Emery County is present and has not been sworn in yet. I would suggest that he be sworn in.

Mr. MURDOCK (Beaver). Mr. President, Mr. Preston also is present and has not been sworn in. I would suggest that he be sworn in.

The oath was then administered to Messrs. Preston and Robertson by the President.

The minutes of the session of March 5, 1895, were then read.

SECRETARY. Mr. President, the following communication has been handed to me:

To the President and Members of the Constitutional Convention:

GENTLEMEN:

We, your committee on site, most respectfully report that we have carefully examined different locations and are unable to find anything more suitable than the quarters we now occupy. We,

therefore, recommend that we accept the generous proposition of the county court of Salt Lake County, which is attached to and made a part of this report. We will state that the county court has kindly agreed to drape the alcove behind the speaker's chair to shut off the strong light. We therefore recommend that we engage the services of the chief janitor of the county's part of this building as the janitor of this Convention. All of which is respectfully submitted.

JACOB MORITZ,
Chairman.

The following is the attached communication:

The following is an extract from the minutes of the county court, held on February 28, 1895:

Resolved, that the use of the civil court room in the joint county and city building and such other rooms as may be necessary be tendered the members of the Convention to be held in Salt Lake City, commencing March 4, 1895, for the purpose of framing a Constitution for the State of Utah, provided that the county be at no expense of making any changes that may be necessary in said room, and that no charge be made for the use thereof, unless there be funds remaining in the hands of the territorial secretary, after all other expenses of said Convention are paid, of the money apportioned by Congress for the expenses of said Convention, and that the members of the county court and the county attorney associated be appointed a committee to wait upon the secretary of the Territory for the purpose of making such arrangements for the use of such rooms by said Convention as may be necessary. The resolution was seconded and adopted, all voting aye.

Mr. GOODWIN. Mr. Chairman, I move that action on that report be suspended for one day, and that the committee be asked to continue their investigations and my reason is this: There are two or three gentlemen in this assembly that are old and feeble. It is hard to come up these stairs. I am not referring particularly to myself, but to some of the older ones. Again there is no room here for spectators, and there is wonderful desire on the part of the people to listen to and watch these proceedings and the reason for my motion is that I believe the Christensen hall—

that is the old Continental market, could be obtained cheaply. It is a fine building. It will give us ample room and give ample room for five hundred or six hundred or perhaps a thousand spectators. It is on the ground floor. There is no special haste about this. We won't be any more uncomfortable for one more day than we have been and hence I make the motion that the action on this report be suspended for one day and that the committee be asked to see if the Christensen hall cannot be obtained and if it can, if it will not answer the purpose better. I speak of that particularly.

Mr. RALEIGH. I second the motion.

The PRESIDENT. Has there been a second to that motion?

Mr. RICKS. Second the motion.

Mr. GOODWIN. I hate to make my speech for fear no one will second it. There will not be a great many social entertainments in that house and we might just as well do penance there as to do it in this hall. I speak particularly on account of the outside public that they may have a place to see and hear.

Mr. JAMES. Mr. President, I arise to second that motion. I have a further reason; I have been called upon by a number of Salt Lake citizens, notifying me that they are going to send a petition to this body, asking them to secure some suitable place, where they may have some little opportunity at least to come and hear the debates of this assembly, and I have had it mentioned to me that there is a possibility of obtaining quarters not very far distant from this room; that I don't care to say anything about, as it comes to me privately; and I wish that that committee should continue their work, and I will second the motion to postpone action until to-morrow, with the notice that I may then move, if they have not settled upon some place in that time, to postpone it until still another day.

Mr. NEBEKER. Mr. President, as

one of that committee, I would like more specific instruction on the part of this Convention, whether it is desirable by the Convention to secure quarters for spectators, or whether it would be more desirable to secure quarters with a view of having convenient committee rooms. Now, the committee has, in the short time that they have been given or that we have taken to report, considered that the committee rooms would be a subject that ought to receive consideration on our part. We have felt that by having convenient committee rooms, the work of the Convention could be expedited—if the rooms were convenient to the assembly room. So I would like the Convention to give specific instructions as to whether it is desirable to look more to the committee rooms, or whether it is more desirable to accommodate the spectators.

Mr. HOWARD. Mr. President, I understood the resolution of the County Court was that the civil court room of this building be tendered for the use of this Convention. Perhaps that room would be better adapted to the use of this Convention than this, without they meant that the wording over these doors should be typical of the crowd that is gathered here.

Mr. WHITNEY. Mr. President, I would like to ask if the Continental Market, which has been suggested as a proper place for meeting, is supplied with desks and seats? I think it is not, and to use that place would necessitate the fitting of it up, and it would be a somewhat heavy expense, which, I suppose, would fall upon the Convention and not upon the citizens who desire to attend in the capacity of spectators.

Mr. CANNON. Mr. President, and gentlemen of the Convention, I would like to ask if the committee desires more time. If they do, it will make a difference as to how I shall vote.

Mr. NEBEKER. Well, Mr. President, I can say for myself, that unless there is a sense of this Convention, I need not

have more time to report on this subject, because at present I don't know whether it is more desirable for the members to have the committee rooms in the same building or whether to have more room for spectators and more convenience for the members themselves in the assembly room.

Mr. JAMES. Mr. Chairman, I would like to say to the gentleman this: Simply that we would like to have a report and investigation of the premises spoken of as to the desirability of the place for meeting. I think you will find that there are rooms there sufficient for committee purposes—as much so probably as you have here. It may not be in the judgment of this Convention a proper place at all, or even of the committee, but simply postpone this until to-morrow or some other day and in the meantime look a little further and let us know what you think about it.

Mr. NEBEKER. I have no objection whatever to that.

Mr. ANDERSON (Beaver). Mr. President, I would like to ask for information; does the report just made by the committee make any provision in regard to desks? It was my understanding that this committee was on furniture and desks as well as site.

Mr. MORITZ. Being the chairman of the committee, Mr. President, I would state that there is another report to be read regarding the desks.

The motion of Mr. Goodwin was unanimously carried.

The secretary then read the remainder of the report of the committee as follows:

To the President and Members of the Constitutional Convention:

GENTLEMEN:

Your committee on furniture most respectfully beg to report that we are unable to find sufficient suitable desks for the use of the Convention, but we can obtain thirty-six from the secretary of the Territory gratis, and also thirty more for a reasonable rental. The balance, forty-one, we can get made for the sum of six dollars each and ready for us

by Tuesday, March 12. Respectfully submitted.

JACOB MORITZ,
Chairman.

Mr. PIERCE. I move to refer this also back to the same committee to act in conjunction with the other report.

The motion being seconded was unanimously carried.

The PRESIDENT. I desire to state to the Convention that it will be impossible for me to bring in my report of the list of committees, to-day. I had completed it in part, but had suggested so far as I could to members that I would like to know the committees that they would prefer to be on and if we can adjust them to their satisfaction, would like to do so; and I find there must be some re-arrangement but in order that we may have some rules for the government of this body, I will report upon rule one, and that was, "Rules and method of procedure." Under the rule, the president of this Convention is made the chairman of that committee. That committee is to consist of the President, C. S. Varian, W. H. Gibbs, Charles H. Hart, and David Evans.

Mr. PETERS. Mr. Chairman, I would like to ask the president how long a time he would desire to have in order that he can make out this report.

The PRESIDENT. Well that is impossible for me to say. I have been working at it night and day nearly since we started. It is a big list of names and it is rather difficult to adjust them and get them properly and fairly distributed among the members, but I think by to-morrow, without any trouble, I can finish it.

Mr. PIERCE. What time to-morrow?

The PRESIDENT. 2 o'clock.

Mr. PIERCE. Mr. President, I move that we do now adjourn until to-morrow at 2 o'clock.

Mr. NEBEKER. Before the adjournment is taken as a member of the committee on site and furniture—

The PRESIDENT. With the permission of the gentleman.

Mr. PIERCE. I will withhold my motion, Mr. Nebeker, for you.

Mr. NEBEKER. The report does not carry any suggestions with it and I think that it would be well on the part of the Convention to decide to-day whether or not it will be necessary to have these desks, so that we can have them made and have the members seated as soon as possible. One day would be lost unless we took action to-day on that subject.

The PRESIDENT. Are there any instructions to be given to this committee in regard to desks?

Mr. C. P. LARSEN. Mr. President, I think that would be premature, until we know whether we will need the desks or not. It is possible that we will remain here.

Mr. IVINS. Mr. President, I move that this committee be authorized to provide suitable accommodations for the members of the Convention in the way of furniture.

Mr. VAN HORNE. I second the motion.

Mr. JAMES. Mr. Chairman, before that motion is put, I want to say this, that if the motion is carried, it may somewhat interfere with our final location, and may provide us with some things that we do not want, and I hope that the motion will go over and the matter be referred back to the committee until to-morrow.

Mr. IVINS. Mr. President, as the mover of that motion, it seems to me that there is no reason why it should not carry. It does not matter whether we meet here or somewhere else. We have got to have some furniture provided, and I simply wish to empower this committee, whether we meet in this room or some other room, to provide necessary furniture for the use of the members.

Mr. JAMES. Mr. Ivins, will you allow me—

Mr. IVINS. Yes, sir.

Mr. JAMES. Suppose we find a place where we will not need the furniture.

Mr. IVINS. Well, I guess if the committee find a place where they won't need the furniture they won't provide any.

The motion was thereupon put and carried unanimously.

Mr. Hart offered the following resolution which was read by the secretary:

Resolved, that until otherwise fixed or changed, the regular sessions of this Convention shall begin at 10.30 a. m. each day, Sundays and holidays excepted.

Mr. HART. I move the adoption of the resolution, Mr. President.

Motion seconded by Mr. Ricks.

Mr. PIERCE. I now renew my motion to adjourn until to-morrow at 2 o'clock.

Mr. GOODWIN. I second the motion.

Mr. ROBERTS. I wish you would withdraw that just a moment.

Mr. PIERCE. What is the matter?

Mr. HART. Mr. Chairman, I rise to a point of order. This is in the nature of a motion to fix the time of adjournment, and the gentleman's motion, although in the same nature, would have to take the shape of this motion.

The PRESIDENT. The motion to fix a time takes precedence.

Mr. PIERCE. Mr. President, this is a motion to fix the time of holding our sessions for all the Convention, and mine is a motion simply to adjourn. If we want to fix the time to adjourn until to-morrow, whether it be ten or half past ten or eleven or two o'clock, it might be in order, but the motion of the gentleman from Cache County is wider and contemplates much more than a motion to adjourn to some particular time.

The PRESIDENT. You make an amendment to that motion, do you?

Mr. PIERCE. No; my motion is simply a motion to adjourn, which is always in order—until to-morrow at 2 o'clock.

Mr. GOODWIN. Mr. Chairman, that motion, if passed, becomes a rule. It does not come under the head of an adjournment and an adjournment does not interfere with it, and until the committee on rules report that part ought to be laid on the table, The motion to adjourn is in order and should be submitted.

Mr. CANNON. Mr. Chairman, I know the motion to adjourn is not debatable, but that I may vote intelligently I would like to hear read the resolution introduced by Mr. Hart.

The resolution was read again by the secretary.

Mr. RALEIGH. Mr. President, I beg leave to make a motion amending the motion of Mr. Pierce, to adjourn until to-morrow at half-past ten.

Mr. WELLS. I desire to ask, Mr. President, if we vote in favor of Mr. Pierce's motion, when will we re-assemble?

The PRESIDENT. 2 o'clock.

Mr. WELLS. Has that been determined?

The PRESIDENT. That was the motion, to adjourn until 2 o'clock.

Mr. FARR. Mr. President, I would like to have this matter settled. For my part I would rather begin our regular sessions at 10. It would meet my mind nearer. I think we had better get to work in time. If we want to change the time until 2 o'clock that is all right, we can change it until 2 o'clock for to-morrow.

The PRESIDENT. The chair thought it would be ready to make its report upon committees by to-morrow at 2 o'clock.

Mr. THURMAN. Mr. Chairman, I realize this question is not debatable and I do not want to debate it, but I want to ask for information—what the gentleman wants to adjourn for at this hour, when there seem to be men who want to have a hearing on the floor on some matters of business?

The PRESIDENT. The only thing to do is to vote him down, as I see.

Mr. THURMAN. Well, that is what I want them to do.

The motion of Mr. Pierce was lost by a vote of 34 ayes to 62 noes.

The PRESIDENT. The question is now on the motion on the resolution of Mr. Hart.

Mr. PIERCE. Mr. President, I move you that the resolution of Mr. Hart be referred to the committee on rules.

Motion seconded.

Mr. VAN HORNE. I would ask for information, having been away at the beginning of the session. Has the committee on rules been appointed?

The PRESIDENT. Yes, sir.

Mr. VAN HORNE. I second the motion, Mr. President.

The motion was put and unanimously carried.

Mr. ROBERTS. Mr. President, I would call for the reading of the resolution, presented by Mr. Eichnor, I think on yesterday, for the reason that I am of the opinion that in that very important matter to this Convention, there has been an omission, and I would like also to see or have read that part of the day's proceedings immediately following that, as I think I can point out the fact to the gentlemen of the Convention, that they will not be satisfied with that record, and of course have an amendment to move on that subject.

The resolution referred to was read by the secretary. Also minutes immediately following.

Mr. ROBERTS. That is the important point. Mr. President, I wish to amend the record of yesterday by inserting the following immediately after the resolution offered by Mr. Eichnor:

The Convention was declared to have conformed to that part of the Enabling Act requiring the adoption of the Constitution on behalf of their constituents, and the Convention was now competent to proceed to the formation of a Con-

stitution and State government for the Territory of Utah.

If I can obtain a second to such an amendment, I have a remark to make.

Mr. THURMAN. I second it.

Mr. ROBERTS. Mr. President, it seems to me that we ought to be careful in making up the record of the Convention's proceedings, and in so important a matter as the adoption of the Constitution on behalf of our constituents, that we ought to round out the record, and make it complete, by a declaration that it was done.

The third section of the Enabling Act reads: (See page 4).

I would accept a suggestion as to my amendment and have it part of the amendment, that preceding this amendment that I propose, there be a statement that the Constitution of the United States was unanimously adopted, and then proceed with the words that I have written out. It seems to me, Mr. President, to be a matter of such importance that we ought to complete our record on that subject.

Mr. EICHNOR. Mr. President, I would like to ask the gentleman from Davis County a question. Do you offer it as an amendment to the resolution introduced by me, or simply as explanatory after the resolution?

Mr. ROBERTS. As explanatory matter after the resolution; my motion is to amend yesterday's record so as to have this amendment of mine follow the resolution and to show that it was unanimously adopted.

Mr. EICHNOR. Mr. President, I think that is very proper. We ought to vote for that and the vote should be unanimous.

Mr. WHITNEY. Mr. Chairman, I would like to hear Mr. Eichnor's resolution read again in connection with this matter.

The same was read by the secretary.

Mr. VAN HORNE. I would suggest there and move as an amendment to Mr. Roberts' resolution, that the

words, "and the Convention" or "the Convention was now competent to proceed," be changed to read, "and to be competent to proceed"—correlating it with "to have conformed."

Mr. RALEIGH. Mr. President, I think it would be well to put in the term that we adopt the Federal Constitution.

The PRESIDENT. The Constitution of the United States, it reads.

Mr. ROBERTS. Mr. President, I would ask leave just for a few moments to copy this out more carefully. It was prepared in the confusion of the house.

The PRESIDENT. If there is no objection, the gentleman may withdraw it for a few moments to do so.

Mr. Hart offered the following resolution:

Resolved, that the sergeant-at-arms be instructed to call upon the territorial librarian, J. P. Bache, for such books of reference and useful pamphlets as he may have to place at the disposal of this Convention during its session.

MR. HART. Mr. Chairman, I move the adoption of that resolution, and in explanation, I will state that Mr. Bache has some state constitutions and other matter that he can send up here for use during our session.

Motion seconded by Mr. James.

Mr. VARIAN. Mr. President, there is a law on the statute governing the powers and duties of the territorial librarian, and under that law, the library and he are under the control of the judges of the supreme court. That law, with the rules under it, prohibit the taking of books from the library or pamphlets, except upon an order of some justice of the court. While I apprehend that this order would not have the force of a law, still it might serve to place the librarian in an embarrassing position. I would suggest to the gentleman that he withdraw the resolution and remodel it in the shape of a request to the justices of the supreme court of the Territory.

Mr. HART. Mr. President, I will say in reference to that matter, and you will notice from the form of the resolution, that there is nothing mandatory about it. It simply says, such as he may have to place at our disposal. I am aware of the regulation of the library, that it is not a circulating library, but that is a matter with the clerk himself, and he certainly will not violate his duties as a librarian.

It may be private property for aught I know, or it may not be connected with the law library proper. At any rate, he has the books that he is willing to turn over to the sergeant, if we so desire.

The resolution was adopted.

Mr. WELLS. Mr. President, I desire in behalf of the committee appointed to investigate the subject of a stenographer to report progress and ask for further time.

The PRESIDENT. If there is no objection, further time will be granted.

Mr. ROBERTS. Mr. President, I am now prepared to present the amendment to yesterday's record as redrafted; following the resolution introduced by the gentleman from Salt Lake, that these words be inserted in yesterday's record:

The resolution was unanimously adopted. The delegates were thereupon declared to have conformed to that part of the Enabling Act requiring the adoption of the Constitution of the United States, on behalf of the people of Utah, and the Convention was declared authorized to form a Constitution and State government for said proposed State.

The motion was agreed to.

On motion of Mr. Ricks, the Convention adjourned until 2 o'clock to-morrow afternoon.

FIFTH DAY.

FRIDAY, 2 p. m., March 8, 1895.

The Convention was called to order by President Smith.

Mr. KEARNS. Mr. President, I ask that Mr. Keith be excused, he was called away to San Francisco.

The PRESIDENT. The gentleman will be excused.

The roll was called showing a quorum present.

Prayer was offered by Reverend James F. Beates of the Lutheran Church.

The secretary read the minutes of the previous day's session, which, after being corrected, were approved.

Engrossing and enrolling clerk, Joseph A. Smith, was sworn in by the president.

The PRESIDENT. Gentlemen of the Convention, I have my list of committees. They are not as satisfactory to myself as I would like.

The secretary then read the list as follows:

STANDING COMMITTEES.

COMMITTEE 1—RULES AND METHODS OF PROCEDURE.—5.

John Henry Smith, Chairman.
C. S. Varian, W. H. Gibbs,
Charles H. Hart, David Evans.

COMMITTEE 2—FEDERAL RELATIONS.—7.

J. D. Page, L. L. Coray,
James D. Murdock, Mons Peterson,
Henry Hughes, John S. Boyer,
William Buys.

COMMITTEE 3—PREAMBLE AND DECLARATION OF RIGHTS.—11.

Heber M. Wells, Joel Ricks,
C. P. Larsen, R. W. Heyborne,
Daniel Thompson, William Driver,
O. F. Whitney, Moses Thatcher,
William Creer, T. B. Lewis,
Andrew Kimball.

COMMITTEE 4—LEGISLATIVE.—15.

W. G. Van Horne, R. G. Lambert,
Frank Pierce, George B. Squires,
J. N. Kimball, David Keith,
Lauritz Larsen, Theo. Brandley,
Lorin Farr, F. S. Richards,
B. H. Roberts, W. J. Kerr,

Charles H. Hart, Ed. Partridge,
Ed. H. Snow.

COMMITTEE 5—JUDICIARY.—15.

C. C. Goodwin, W. G. Van Horne,
Frank Pierce, Alma Eldredge,
G. P. Miller, J. A. Hyde,
Elias Morris, C. W. Symons,
Noble Warrum, Jr., Aquila Nebeker,
Thomas Maloney, David Evans,
S. R. Thurman, Joseph R. Murdock,
S. H. Hill.

COMMITTEE 6—EXECUTIVE.—15.

C. S. Varian, W. G. Van Horne,
George R. Emery, Richard Mackintosh
Thomas Kearns, A. C. Lund,
Daniel Thompson, J. L. Jolley,
W. G. Sharp, Samuel Francis,
J. R. Barnes, J. D. Halliday,
A. W. Ivins, J. D. Peters,
W. B. Preston.

COMMITTEE 7—ELECTIONS AND RIGHT OF
SUFFRAGE.—15.

J. F. Chidester, A. S. Anderson,
Jos. E. Robinson, R. Mackintosh,
P. Christianson, Robt. McFarland,
Peter Low, James D. Murdock,
Chester Call, Andreas Engberg,
Fred J. Kiesel, A. H. Raleigh,
William Howard, F. A. Hammond,
S. R. Thurman.

COMMITTEE 8—APPORTIONMENT AND
BOUNDARIES.—26.

Alma Eldredge, Joseph R. Murdock,
Charles Crane, Wm H. Maughan,
John R. Barnes, Jasper Robertson,
John F. Chidester, Mons Peterson,
R. W. Heyborne, John R. Murdock,
J. A. Hyde, J. E. Robinson,
Samuel Francis, R. A. Allen,
Aquila Nebeker, F. A. Hammond,
C. P. Larsen, Harry Haynes,
Joel Ricks, T. H. Clark,
Lycurgus Johnson, Geo. Cunningham,
E. H. Snow, Willis E. Robison,
L. B. Adams, W. H. Gibbs.

COMMITTEE 9—EDUCATION AND SCHOOL
LANDS.—11.

Frank Pierce, H. M. Wells,

A. C. Lund, C. N. Strevell,
John R. Bowdle, Elias Morris,
Karl G. Maeser, T. B. Lewis,
A. J. Evans, E. H. Snow,
W. J. Kerr.

COMMITTEE 10—PUBLIC BUILDINGS AND
STATE INSTITUTIONS.—11.

Elias Morris, H. F. Shurtliff,
Daniel Thompson, A. J. Cushing,
George Ryan, James C. Peterson,
J. E. Thorne, J. P. Low,
H. H. Spencer, E. E. Corfman,
William Creer.

COMMITTEE 11—WATER RIGHTS, IRRIGA-
TION, AND AGRICULTURE.—15.

John R. Murdock, L. B. Adams,
Theo. Brandley, Lauritz Larsen,
J. J. Williams, H. T. Shurtliff,
James F. Green, L. L. Coray,
W. H. Maughan, Henry Hughes,
Lycurgus Johnson, Hyrum Lemmon,
Lorin Farr, William Low,
Willis E. Robison.

COMMITTEE 12—MUNICIPAL CORPORA-
TIONS.—9.

D. C. Eichnor, A. J. Cushing,
J. N. Kimball, J. D. Page,
John F. Bowdle, A. H. Raleigh,
Lorin Farr, Geo. Cunningham,
Noble Warrum, Jr.

COMMITTEE 13—CORPORATIONS OTHER
THAN MUNICIPAL.—15.

W. F. James, G. M. Cannon,
William Driver, D. S. Stover,
David Keith, G. P. Miller,
J. L. Jolley, R. A. Allen,
C. H. Hart, Aquila Nebeker,
Thomas Maloney, Fred J. Kiesel,
S. R. Thurman, Ed. H. Snow,
William Buys.

COMMITTEE 14—PUBLIC LANDS.—7.

L. B. Adams, A. S. Anderson,
Samuel H. Hill, H. G. Button,
B. H. Roberts, J. P. Low,
William Creer.

COMMITTEE 15—REVENUE, TAXATION,
AND PUBLIC DEBT.—15.

George M. Cannon, George B. Squires,

Harry Haynes, Jacob Moritz,
C. N. Strevell, Robt. McFarland,
James D. Murdock, Peter Low,
William J. Kerr, Chester Call,
A. W. Ivins, David Evans,
Abel J. Evans, Moses Thatcher,
Hyrum Lemmon.

COMMITTEE 16—SALARIES OF PUBLIC OFFICERS.—9.

R. Mackintosh, George R. Emery,
T. H. Clark, Thomas Kearns,
H. H. Spencer, William B. Preston,
John S. Boyer, I. C. Thoreson.

COMMITTEE 17—MINES AND MINING.—15.

Thomas Kearns, W. F. James,
R. Mackintosh, Samuel H. Hill,
George B. Squires, D. B. Stover,
George Ryan, James C. Peterson,
W. F. Sharp, J. D. Peters,
O. F. Whitney, F. S. Richards,
A. W. Ivins, E. E. Corfman,
William Howard.

COMMITTEE 18—LABOR AND ARBITRATION.—7.

C. N. Strevell, D. C. Eichnor,
Jacob Moritz, Lauritz Larsen,
Ed. Partridge, Andreas Engberg,
J. D. Peters.

COMMITTEE 19—PRINTING.—3.

R. G. Lambert, John R. Bowdle,
Charles H. Hart.

COMMITTEE 20—MILITIA.—5.

George Ryan, C. W. Symons,
D. B. Stover, Jasper Robertson,
Edward Partridge.

COMMITTEE 21—MANUFACTURES AND COMMERCE.—7.

J. A. Hyde, Jacob Moritz,
P. Christianson, William Driver,
Fred J. Kiesel, Andrew Kimball,
Joseph Thorne.

COMMITTEE 22—ORDINANCE.—7.

R. W. Heyborne, J. F. Chidester,
D. C. Eichnor, H. G. Button,
F. S. Richards, Moses Thatcher,
William Buys.

COMMITTEE 23—SCHEDULE AND FURNITURE, AMENDMENTS, AND MISCELLANEOUS.—9.

Joel Ricks, James F. Green,
Jos. E. Robinson, J. J. Williams,
G. P. Miller, B. H. Roberts,
Samuel Francis, Karl G. Maeser,
John D. Halliday.

COMMITTEE 24—ACCOUNTS AND EXPENSES.—3.

A. C. Lund, A. J. Cushing,
John R. Barnes.

COMMITTEE 25—ENGROSSMENT AND ENROLLMENT.—5.

Mons Peterson, Heber M. Wells,
Theo. Brandley, William Low,
William J. Kerr.

COMMITTEE 26—COMPILATION AND ARRANGEMENT.—5.

Charles Crane, C. C. Goodwin,
R. G. Lambert, O. F. Whitney,
Moses Thatcher.

Mr. GOODWIN. Mr. President, in what I am going to say I hope the President will not think for one moment that I lack appreciation of the very high honor he has conferred upon me in making me chairman of the judiciary committee, but in my little experience, I have never seen people reach places which they did not deserve and have any comfort in them; and then there is a principle of justice connected with this matter.

While I earned all my legal titles honestly, it is more than twenty years since I engaged in the legal profession and all around me on both sides of the house are eminent attorneys who have devoted their whole lives to that business.

I have no doubt but what if I should hold the place assigned that all the attorneys on the committee would treat me with due consideration and with perfect kindness, but it would only be natural if in their hearts they felt an injustice had been done; perhaps not to

them individually, but to their profession.

In my judgment the man who is chairman of the judiciary committee ought to be a man eminent in the legal profession, and hence, thanking you kindly for the honor you intended to confer, I ask you to release me from that position.

Mr. MALONEY. Mr. President, we all know that the gentleman has earned the legal titles which he bears, and having been a long time a lawyer of high standing, he is eminently fitted for the chairmanship of the committee of which he is the head. And I think he is perfectly capable to serve in the capacity for which he has been named.

Mr. GOODWIN. You will readily see, Mr. President, that no gentleman on that committee would make an objection, not through any particular fear of consequences.

I might look like perfection, but for instance, if there were a committee on journalism to be appointed and if appointed to the chairmanship of that committee should be some gentleman who had been a journalist twenty years ago, but who ever since had been engaged in ranching and mining or something else and there happened to be a journalist on that committee he would think a mistake had been made.

Mr. RICKS. I move that it be the sense of this Convention that the Judge stay as chairman of that committee.

Seconded.

Mr. ELDREDGE. Mr. President, I would be pleased as a member to vote to sustain Judge Goodwin as chairman of that committee, but inasmuch as he has expressed himself in the way that he has, I am somewhat in favor of allowing a man to enjoy his own wishes in regard to a position before he serves in that capacity.

Mr. BUTTON. Mr. President, I move as an amendment that it be left with the president and with Judge Goodwin to decide the matter.

Seconded. *

Mr. PIERCE. Mr. President, I arise to a point of order; I believe all these motions are out of order. It is a rule of all legislative bodies or at least of this legislative body that the president has the right to arrange his own committees. If Judge Goodwin and the president can agree upon allowing him to remain or not to remain, it is a matter between the two gentlemen and I do not think it is a matter that the Convention ought to take any cognizance of at all, and I think the motions are entirely out of order. I therefore raise the point of order.

The PRESIDENT. I sustain the point of order. I will say that the first named on these lists are chairmen of the committees,

The committee on site and furniture then presented the following report:

To the President and Members of the Constitutional Convention:

Your committee on site and furniture most respectfully beg to submit the same report as yesterday, as we are unable to find anything more suitable.

By request, the secretary read the report from the same committee presented yesterday. (See page 61).

Mr. EVANS (Weber). Mr. President, are there two reports there?

The PRESIDENT. They seem to be combined.

Mr. EVANS (Weber). I move, Mr. President, that we adopt the report of the committee on site.

Seconded.

Mr. BUTTON. Mr. President, I want to ask a question before that is put. I want to ask if that motion carries with it the hiring of Mr. Scott, the janitor of this building, to take care of the room?

Mr. EVANS (Weber). As I understand it, Mr. President, it simply settles the question as to where we will hold this Convention—that is, that we will hold it in this room.

Mr. VAN HORNE. Mr. President, I move as an amendment that so much

of that report as refers to the engaging of the janitor be stricken out and that the rest be adopted.

Seconded.

Mr. ROBERTS. Mr. President, I certainly would raise an objection to the striking out of that part of the report relating to the janitor of the county part of this building. The county court, as I understand it, has generously proffered the use of this hall, practically free of rental, and for this Convention now to push aside the county janitor, it seems to me, sirs, is a piece of ingratitude that I sincerely hope will not be resorted to by the gentlemen of this Convention. I, of course, don't know anything about the caucus arrangements—whether there is a man for this particular place or not arranged for, but I do certainly object, sirs, to this narrow piece of business of rejecting the county janitor when the county has tendered the use of this hall to the Convention.

Mr. SQUIRES. Mr. President, I want to call the attention of the Convention to a fact in relation to this matter. This question goes not only to the janitorship of this hall, but to twenty-six other rooms, more or less in this building. The keys of those rooms are in the custody of the janitor of the county court; the county court in its wisdom did not consider that it would be good policy to turn the keys of so many rooms over to an outsider.

The county court would undoubtedly want those rooms secured after this Convention has adjourned, and if the keys have been left indiscriminately where duplicates can be made, there would be no safety in one of those rooms after this Convention has adjourned, and as a matter of safety for the county court who naturally have the custody of this building, I should object to this amendment and I believe that we should adopt the entire recommendation of the county court.

Mr. SNOW. Mr. President, I move as

an amendment to the amendment that we accept the report of the committee and adopt their recommendation.

Seconded.

Mr. EICHNOR. Mr. President, I arise for information. If we adopt that report, is that to displace our watchman and janitor that we elected the other day—that is just what I want to know?

The PRESIDENT. The committee may be enabled to answer that question.

Mr. SQUIRES. Mr. President, I should suppose that we needed the services of a watchman and doorkeeper; that I understood to be the motion under which Mr. Johnson was elected, but I found later that he was elected watchman and janitor; certainly one man will not be able to take care of the twenty-six rooms in this building besides this—

Mr. EICHNOR. I inform the gentleman from Davis County, Mr. Roberts, that there is no caucus arrangement as to the janitor. We elected a doorkeeper and janitor in the caucus and that carried.

Mr. EVANS (Weber). What is the politics of the man mentioned in the report—Republican or Democrat?

Mr. EICHNOR. He is a Republican.

Mr. VAN HORNE. My object in making the motion was simply that we had elected a janitor and watchman. If this Convention wants to elect an assistant janitor I have no objection whatever to electing the janitor of the county's part of this building, but it was simply the question of privilege of an officer elected by this Convention—whether we would elect some one else in his place or not.

Mr. MORITZ. Mr. President, if you will allow me, as chairman of this committee, we will take the responsibility and insert "assistant janitor."

Mr. BUTTON. Mr. President, I am going to support the amendment of Mr. Van Horne's and the reason is if we have got any more jobs for janitors, we

have got any amount of men walking the streets that want them and I do not believe in giving a man a job who has already got one.

If we have a job, I want to support a man that hasn't got a job.

Mr. EVANS (Weber.) I desire to support the original motion, that the report of the committee be adopted.

It does seem to me that we ought to be grateful enough to the county court for the generous offer it has made to at least permit the county court to have some officer here paid from the funds that are appropriated for the expenses of this Convention, to look after that property which it has extended to us without compensation.

It seems to me there can be no objection to this upon the other side of the house, since it is known that that officer who is now in the employ of the county court is of the same political faith as they are.

It will not disarrange any of the arrangements which they have previously made and it will keep them entirely consistent with themselves, and I might remark further that it is about the first time I ever heard of any objection made on the part of these gentlemen to a multiplicity of offices.

(I only speak that jocularly, because I mean no offense.)

It would seem to me that the county did intend when they extended to us this generous offer of this magnificent building to hold our Convention in, that they ought to have some one paid out of the funds appropriated for the expense of this Convention to look after their property.

Gentlemen, let us give it to them. They have made us a generous offer, let us accept it in the same generous feeling in which they have extended it to us.

Mr. VAN HORNE. Would you object then to Mr. Moritz's proposed amendment to the report of the committee and have him known as assistant janitor?

Mr. EVANS (Weber.) As I understand it, it does not displace any officer. Some action would have to be taken in order to displace those officers already selected.

This is creating another officer and I would object to it on general principles, but not in view of the fact that the county court asks it, when it is asking us no compensation at all for the building which we are now holding our Convention in.

Mr. ROBERTS. Mr. President, I would like to ask a question and that is, wasn't the office of doorkeeper and janitor combined in the person that was elected here the other day?

Mr. VAN HORNE. Watchman and janitor.

Mr. ROBERTS. Would it not then be consistent to let that gentleman who was elected to that position spend his time as watchman and the other fellow as janitor of the house?

The PRESIDENT. Gentlemen, Mr. Evans made a motion to adopt this report.

Mr. Van Horne moved to amend by striking out that portion referring to the janitor.

Mr. SNOW. I didn't understand the scope of Mr. Evans' motion. I see it has the same scope as mine, so, with the consent of my second I will withdraw it.

Mr. VAN HORNE. I will withdraw the amendment.

Mr. FARR. Mr. President, does this report contain the recommendation that forty new desks be made?

The PRESIDENT. No, sir.

Mr. FARR. Mr. President, if it does I object to spending the money. [Laughter.]

Mr. RICKS. Mr. President, I want to ask a question. Does this motion contemplate this janitor employing all of his time in behalf of this Convention, or does he have charge of the rest of the building?

If so, he ought to be paid proportionately.

[Calls for the question].

The motion to adopt the report of the committee was then carried.

The secretary then read another report from the committee on site and furniture as follows:

To the President and Members of the Constitutional Convention:

Gentlemen:

Your committee on furniture most respectfully beg to report that we are unable to find suitable desks for the use of this Convention, but we can obtain thirty-six from the secretary of the Territory gratis, and also thirty more at a reasonable rental. The balance, forty-one, we can get made for the sum of six dollars each and ready for use by Tuesday, March 12.

Respectfully,

MORITZ, of Salt Lake.

Chairman.

Mr. MORITZ. Mr. President, since that came here this afternoon, I got another bid from another gentleman for desks. I would like to hear it read.

The secretary then read the following:

Salt Lake City, Utah, March 7, 1895.

To the Chairman of Committee on Sites and Furniture:

Sir:

I will make you an all redwood desk, two feet square, with inclined top, including drawer, 22 inches square, locked with a suitable mortised lock, and give the same one coat of oil, also deliver the same in Salt Lake City, at the ratio of sixteen to one a day from the time of order for the same, five dollars each.

Reference, Morrison, Merrill & Co.

Respectfully,

RICHARD STUART,

Telephone No. 501.

Mr. MORITZ. Mr. President, I would state that we have been offered thirty desks for a nominal sum, as rent, but since the gentleman who owns the desks found out that we were not in favor of renting his hall, he has refused either to rent them or sell them to us. All we can get is the territorial desks of 36 in number and to get new desks made for five dollars sufficient for our use it will cost \$355.

Mr. SQUIRES. Mr. President, in a con-

versation with Mr. Moritz yesterday, he assured me that figures had been made as to the possibility of seating 107 men with desks in this room.

I wish he would state to the Convention the result of the examination on that subject.

Mr. MORITZ. Mr. President, and gentlemen, I didn't make the measurement myself, but I got it from the governor of this Territory, that the governor and the secretary had employed competent gentlemen, who understood their business. They have measured this room and state that 107 desks in here wouldn't give us as much space to walk in as we have now with these tables.

Mr. SQUIRES. In view of that fact, Mr. President, I move that instead of securing any desks, we use the furniture which we now have in this room.

Seconded.

Mr. CANNON. Mr. President, I would like to ask whether it is possible to have drawers made in the desks that we now have and whether that would be permissible or if it would be objected to by the county court?

Mr. SQUIRES. Mr. President, the committee can confer with the county court and find out whether they object to our improving their furniture by putting drawers in. I don't believe they would.

Mr. BUTTON. Mr. President, if the Convention desire, there can be made something that will set on these tables with drawers in right on the top, that will not mar the furniture in any way, shape or manner, and contain drawers enough for all the members.

Mr. ROBERTS. Besides we could hide behind them.

Mr. MORRIS. Mr. President, in view of accepting the furniture as it is, would it not be wise to get the desks that the secretary has? It would cost nothing and have them in the ante-room or committee rooms so that we could keep under lock our papers and books.

Mr. MORITZ. Mr. President, I would state for the information of the gentleman who has just spoken that the county court will furnish us with enough desks of their own and give each of the committees at least two drawers to lock their papers in. I believe the sergeant-at-arms has already arranged for those desks for the committees.

The PRESIDENT. Mr. Squires moved that we retain the furniture that we now have.

The question is now on that motion. Carried.

Mr. Evans of Weber offered the following:

Resolved, that in the selection of seats for delegates all members of the age of sixty years and upwards be first permitted to take their choice of seats, after which the seats of the remaining members shall be ascertained by placing on a slip of paper the names of such members in a box and thoroughly mixed, and separately drawing therefrom by the chief clerk, and when called by such clerk, the member, whose name is thus called, may select his seat, and that such method be continued until all the delegates are seated.

Mr. EVANS (Weber). Mr. President, I move the adoption of that resolution. Seconded.

Mr. THURMAN. Mr. President, I have no serious objection to that resolution. I would prefer, however, to strike out the number "sixty," and insert "forty-three."

Mr. CREER. Mr. President, I move to amend that resolution by inserting that we draw our seats by counties, after thus selecting them by those who are over sixty years of age.

Mr. EICHNOR. I second the amendment.

Mr. CORAY. Mr. President, I will offer an amendment to that amendment that we first seat the country members and then the Salt Lake delegation get their seats afterwards.

Mr. SQUIRES. Mr. President, that will be practically the effect of the mo-

tion, as Salt Lake is pretty low down on the list.

Mr. EVANS (Weber). I am not at all captious about that amendment, but my idea, I would say, in offering the resolution as it was drawn, was to thoroughly mix up the city and country members and also the Democrats and Republicans, that we might be mixed up and consult with each other and perhaps a more harmonious feeling might result from it.

If we get to concentration as counties or as Democrats or as Republicans, the tendency might be to precipitate a political feeling which I hope will be kept down during our deliberations.

Mr. MORITZ. Mr. President, I move to amend, that we all keep our seats as we now occupy them.

Mr. GOODWIN. Mr. President, I arise for information; suppose these seats are decided upon to-day, how will any one distinguish his seat when he comes here to-morrow? There are no numbers on them. The tables are not designated.

The PRESIDENT. He will have to put his mark on it, I guess.

Mr. GOODWIN. There are a great many here that will never make their mark. [Laughter.]

Mr. LOW (Cache.) Mr. President, did the second amendment receive a second?

The PRESIDENT. No; Mr. Coray's amendment did not receive a second.

Mr. LOW (Cache.) Mr. President, I have an amendment to the amendment, that they be called off by counties and that the members thereof select their seats as the counties are drawn.

Seconded.

Mr. BUTTON. Mr. President, I move to lay the motion and all amendments on the table.

I haven't been here to any meeting yet, that I haven't got a chair and haven't crowded a man over sixty years out of a chair yet.

When we come in here I believe the gentlemen on the other side are afraid

we will get out by ourselves and there will be some feeling. Now we are all mixed up just as much as we could be by drawing.

I move as a substitute to lay the motion and all amendments on the table.

Mr. KIESEL. I second the motion.

Mr. RICHARDS. Mr. President, I realize this is not debatable, but I would like to enter a protest if I may be permitted; I think the members of this Convention ought to be permitted to have the satisfaction of knowing that they will have a seat somewhere on the floor, and I for one would like to know where my seat is. I am not so particular about the location of it, but I should like to realize that when I come into this chamber I may find a seat unoccupied and the same seat each day. I think that is reasonable.

Mr. EVANS (Weber.) Mr. President, I hope Mr. Button's motion will not carry.

It seems to me that we would create confusion during the entire course of our deliberation. It seems to me we ought to know where our seats are when we come to this hall.

Mr. BUTTON. Mr. President, this motion is not debatable, this is not a convention of lotteries, it is a Constitutional Convention.

Mr. Button's motion was rejected.

Mr. VAN HORNE. I move as a substitute that we occupy permanently the seats we now occupy.

Mr. RICHARDS. I arise, Mr. President, to a point of order. This is an amendment to the amendment and the gentlemen's suggestion is out of order.

The PRESIDENT. It is out of order.

Mr. CANNON. Mr. President, and gentlemen of the Convention, I favor the original motion for the reason that I believe as stated by the mover thereof a better feeling will prevail if the members will take their seats without regard to county or political party.

I believe that it will be more satisfactory all around and for that reason I

favor the original motion as put by Mr. Evans.

Mr. EVANS (Weber.) Mr. President, I would like to know just what we are voting on. I am free to admit I do not exactly understand the question that is before the house.

The PRESIDENT. Mr. Evans moved to adopt the resolution by which men over sixty years of age were to have their choice of seats and afterward for the rest of the gentlemen to draw their seats.

Mr. Creer moved to amend that they should draw seats by counties. Mr. Low moved to amend by providing that the roll be called by counties and that the members thereof select their seats as the counties are called.

Mr. EVANS (Weber.) I arise to a point of order on that. There is no difference between the two motions.

Mr. LOW (Cache). Mr. President, I may be allowed to explain that the last amendment does not make any provision for gentlemen of any age, but contemplates all the members from the various counties.

The amendment of Mr. Low was rejected.

Mr. FARR. Mr. President, I voted a little while ago on the motion that all the other motions be dropped, he called the question on the motion; I supposed that was the motion. That is for every one to keep their seats that they have got now. They have got them about as they want them, and he made a motion that all others should be dropped and that was seconded, and that every one should keep their seats; that is what I voted on. Now, I would like to know what we are voting on.

The PRESIDENT. You are now voting upon the motion of Mr. Creer—an amendment to the principal motion.

Mr. VAN HORNE. I move you as an amendment to the amendment that we occupy the seats that we have already chosen.

Seconded.

Mr. ROBERTS. Mr. President, I look at these two gentlemen right in front of me and I never can vote for that kind of a proposition.

Mr. IVINS. Mr. President, for information, I would wish to ask, if this motion should prevail, if it is understood that as the list of counties is called the delegates from those counties are to choose their seats, is that the idea?

The PRESIDENT. That they draw by lot, is the understanding I have.

Mr. IVINS. That is what I want to know, whether they draw by lot as to which county selects its seats first—or do they do it by roll call?

Mr. CREER. My understanding, Mr. President, is that each county draw their seats by lot.

The PRESIDENT. Do you mean to exempt all these aged men?

Mr. CREER. Yes, sir.

Mr. RICHARDS. Mr. President, I desire a further explanation of this matter. Does that mean that the names of the counties shall be placed in a box and the ballot drawn for the county and then the members for that county take their seats, or does it mean we are to go through the roll?

The PRESIDENT. Yes, sir; after the elder men are seated.

Mr. RICHARDS. Mr. President, that is, the name of the county is drawn by lot?

Mr. CREER. Yes, sir.

The PRESIDENT. Now, gentlemen, have you got this in your heads?

[Laughter.]

Mr. PIERCE. The question on the amendment.

The amendment of Mr. Creer was rejected.

The PRESIDENT. The matter now recurs upon the original motion of Mr. Evans.

Mr. JAMES. I would like to make an inquiry, I would like to ask the gentlemen of sixty years of age in the room if

they wish to change their seats from where they are now sitting.

Mr. CREER. They may do as they please.

Mr. JAMES. I would like to give them the privilege of remaining right where they are if they want to stay there.

Mr. IVINS. Mr. President, I am opposed to this motion, for this reason, that there are delegations here from different counties who might desire to be seated in the same immediate neighborhood, if not right together.

Now, if this motion shall prevail, I may draw a number and choose a seat on one side of the house and that may be entirely filled up before the other representative from Washington County got a seat at all and he would be over on this side of the house. I am opposed to the motion because of that.

It will scatter these county delegations all over the house where they can have no communication with each other.

The resolution of Mr. Evans of Weber was adopted.

Mr. SQUIRES. Mr. President, I move that we proceed at once to the choice of seats.

Carried.

The members thereupon selected their seats in the manner prescribed.

Mr. Wells offered the following:

Resolved, that the freedom and courtesy of the Convention be extended to the governor and secretary of the Territory, delegate to Congress, and judges of the supreme court, and that the secretary of the Convention be directed to notify them of this action.

Mr. VARIAN. Mr. President, I move that be referred to the committee on rules. There ought to be a standing rule upon that subject. It is interfering with the prerogative of that committee.

The motion of Mr. Varian was agreed to.

Mr. HART. Mr. President, there is a

matter I desire to present to the consideration of the Convention. It is of some importance. The committee on standing committees made no report empowering the president to appoint committees. Those committees were all appointed before the adoption of any special rule.

It is a very grave question in my mind whether the president under the present rules of the Convention would have the authority to appoint committees.

The only rules that we have upon the question are Roberts' Rules of Order, and I fail to find anything in there giving the president the power to appoint standing committees, and in order to make the thing clear, Mr. President, I offer this resolution:

That whereas, the appointment of standing committees of this Convention was made before the adoption of special rules giving the president the usual power of appointing standing committees, now, therefore,

Be it resolved, that the president of this Convention is empowered to appoint all the standing committees, and the appointments heretofore made by him are hereby ratified and confirmed.

I move the adoption of the resolution.
Seconded.

Mr. SQUIRES. Mr. President, I move that resolution be referred to the committee on rules.

Seconded.

Mr. VARIAN. Mr. President, I will state that the probabilities are that that will be the first rule under the usual precedent, that will be reported by the committee on rules and be a standing rule of the Convention. It is simply encumbering the record with unnecessary resolutions.

Mr. HART. I do not object to sending it to the committee on rules, if there is any question about the propriety of adopting it, but it seems to me that it is a matter that we might as well settle and determine now as any time, and that will cover the ground that is usually covered by the rules on that sub-

ject and the rules that will be reported by the committee on rules.

The motion to refer the resolution to the committee on rules was carried.

Mr. HART. Mr. President, as one of the members of the committee on printing, I think it would be well to have some instructions given by this Convention to us in regard to printing matters.

Of course, the minutes, I presume, should be ordered printed at once, and then there is a matter of bids, etc., for the permanent printing, and if there are any suggestions by members of the Convention in regard to this printing matter, I think it would be appropriate to make them so that we may get down to business as soon as possible.

Mr. EICHNOR. Mr. President, what we absolutely need is the report of the committee on rules. I suppose that committee will report as soon as possible; all these matters that have been referred to at the present time will be covered, no doubt, by the rules that this Convention will adopt.

Mr. HART. If there are no objections, Mr. President, I would like to have it understood that the committee on printing may have the minutes of the Convention printed without any further instructions.

The PRESIDENT. If there are no objections, the committee on printing will have the minutes that we have made heretofore printed.

Mr. James offered the following:

Resolved, that the committee on accounts and expenses report to the Convention the amount of the expense including per diem up to the present time, and any other information they may give us on the general expense of the Convention.

Seconded.

Mr. THORESON. Mr. President, I move that the word "mileage" be inserted in that resolution after the word "per diem."

Mr. JAMES. I accept the amendment.
The resolution was adopted.

Mr. Thurman offered the following:

Resolved, that the several standing committees of this Convention shall report the work assigned to them as speedily as may be consistent with efficiency and thoroughness and when the same is reported if any part thereof is copied from or modeled after the constitution of any state that it shall be stated in the report, together with the name of the state and the date of the adoption of the constitution or provision thereof.

Mr. THURMAN. Mr. President, I move the adoption of that resolution.

Seconded.

Mr. EICHNOR. Mr. President, I move as an amendment to refer it to the committee on rules.

Seconded.

Mr. THURMAN. Mr. President, I do not see any reason for referring this to the committee on rules. It is a matter, I think, that does not particularly belong to the committee on rules. The committee on rules are going to have enough work that will legitimately belong to them to keep them about the busiest committee of this Convention. Now, the purpose of this resolution should be patent to every member of this Convention. If the provision reported by any committee as a part of their work is drawn wholly or in part from the constitution of any state, if they will state the name of the state and the date of the constitution from which it is copied in their report, it will enable the members of this Convention who desire to thoroughly investigate the provisions reported to see how that provision of that state constitution has been construed and see what the legal effect of such a provision is as construed by the courts of the land. Now that is all there is to it, and certainly it is not a matter that the committee on rules need to desire to be troubled with. If there is a reason for it, however, I have no pet object in the resolution at all, but I think it is a resolution that ought to be adopted.

Mr. VARIAN. Mr. President, permit me to make this suggestion to the gen-

tleman. It is quite important that the rules of this Convention should be embodied in compact form and printed as they will, so that they will be under the observation and open to the inspection of every member and particularly the committees.

Now, if the Convention in advance of the report of the committee on rules proposes a number of resolutions affecting the rules and the procedure, necessarily, we may become somewhat confused and may forget some of these things.

I haven't the slightest doubt that such a provision as suggested by Mr. Thurman will be incorporated in the standing rules presented to the Convention. I will suggest to him that if that is not done, or any other omission that is patent when the rules are adopted, the defect can be cured by amendment in the same way, but certainly the committee on rules cannot be expected to remember every resolution that has been adopted by this Convention prior to the action of the committee on rules. I should like Mr. Thurman if you would consent to that.

Mr. THURMAN. You desire it referred?

Mr. VARIAN. Yes, sir; so they will not omit anything and at the same time shall not conflict with any action of the Convention.

Mr. THURMAN. I ask that it be referred to the committee.

The motion to refer was agreed to.

Mr. WHITNEY. Mr. President, I move that the committee on printing be authorized and instructed to have printed at once for the use of the members of this Convention a sufficient number of slips containing the names and personnel of all the standing committees.

Seconded.

Mr. PIERCE. Mr. President, I move to amend by putting in that the Enabling Act and the standing committees. That will be a great advantage to us—and have it bound in leaflet

form so that the members can carry them.

Mr. WELLS. Mr. President, it seems to me this resolution ought to go to the committee on rules, the same as the other resolutions that have been introduced. If we have the standing committees printed now, then to-morrow we will have the rules printed and they will be in separate pamphlets; I think that little booklet that we will have printed ought to include the rules and the standing committees and they ought to be together in some compact form. I move that it be referred to the committee on rules.

Seconded.

Mr. WHITNEY. I merely wish to say that I have no objection to the disposition of the resolution, provided we can have this data at once to refer to. It is immaterial how we get it.

The motion of Mr. Wells was agreed to.

Mr. VARIAN. Mr. President, I would like to inquire whether we have an authenticated certified copy of the Enabling Act from the governmental department?

The PRESIDENT. We have not, to my knowledge.

Mr. VARIAN. We ought to have the distinct authorized act or a copy thereof here. Mr. President, I move that the secretary of this Convention be instructed to request the secretary of the Territory to procure such an authorized copy. The statute has not been published in book form as I understand it, under the authority of the United States.

Mr. MALONEY. Mr. President, yes, it has.

Mr. VARIAN. But at all events, this Convention ought to have in its possession the duly authenticated authority for its convening and acting and I believe the usual course will be to procure from the interior department an authenticated copy of the act.

Mr. ROBERTS. I wish to ask the

mover of that motion if he contemplates that if the secretary of the Territory does not have such certified copy, that the Convention is to await the reception of one from the secretary of the interior? As I understand we were to apply to the interior department for such.

Mr. VARIAN. Not to wait, but I think as soon as possible, we ought to have it, in case any discrepancies might appear or some question might be made.

Mr. ROBERTS. But that does not delay the action of the Convention?

Mr. VARIAN. No, sir; but within a week we will have it here.

Mr. MALONEY. Mr. President, I wish to say that the Enabling Act is published in the acts of Congress of 1894, and is in the fourth district clerk's office, at Ogden, and I presume there is one here in the third district clerk's office.

Mr. VARIAN. Mr. President, that does not meet the want of this Convention. It is like the charter of a body. We want it here, and there will be no expense attached to it. It is simply a matter of requesting the secretary of the Territory to procure it from the interior department. It ought to be here in the possession of the president.

Mr. Varian's motion was agreed to.

Mr. Thompson, by request, was excused from attending to-morrow's session.

Mr. MORITZ. Mr. President, I move that the sergeant-at-arms be instructed to procure a telephone and place it in the cloak room for the use of the members.

Carried.

Mr. VARIAN. I move we adjourn until Monday next at 2 o'clock.

Mr. EVANS (Weber). Mr. President, I move to amend that motion by fixing the time at 2 o'clock to-morrow afternoon.

Seconded.

Mr. MORITZ. Mr. President, as there

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is nothing before the house, I move that the committee on sites and furniture be discharged.

The PRESIDENT. There is the question of fixing the time for adjournment before the house.

Mr. CHIDESTER. Mr. President, I move we adjourn.

Mr. EVANS (Weber). Mr. President, I believe the committee on rules will be ready to report at 2 o'clock to-morrow. If so, that report can be disposed of and we will save one day.

The PRESIDENT. I doubt their ability to do it.

Mr. EVANS (Weber). I appreciate the fact that we cannot be here very long without exhausting the appropriation and I believe we ought to work every day in the week, Sundays excepted. As a member of that committee on rules, I am willing to go to work on that and I believe we can report at 2 o'clock to-morrow, and then we will be fully organized and ready for work and then the rules may be printed, in the meantime, as suggested to me, and we will have them in the hands of the members by Monday morning.

Mr. BARNES. I move to amend by making the time 12 o'clock to-morrow. That I think will give some of the folks who live north—particularly in Cache Valley—an opportunity of going home.

Mr. VARIAN. If we are going to adjourn until to-morrow, I hope the motion will be to adjourn to 2 o'clock. 12 o'clock is certainly an inconvenient hour to be here and have dinner or lunch, as the case may be, but I want to suggest to the Convention that nothing will be accomplished by simply coming here, sitting down, and going away again. These committees have got to be organized and after their organization there will be some time consumed in preparing work for the Convention in committee of the whole. Some of our friends here say they want to go away over Sunday; naturally I expect that. Why not adjourn right over until Mon-

day, finishing now for the first week, and by next Monday, it is quite probable the Convention will be in working order.

Mr. PIERCE. Is it likely that the committee on rules will be able to report by to-morrow at 2 o'clock?

The PRESIDENT. I think not; I do not think it is possible for them to report before Monday.

Mr. PIERCE. If they are not able to report by 2 o'clock to-morrow, there is no need of our meeting until Monday.

The PRESIDENT. Gentlemen, the question is on the amendment to the amendment to adjourn until to-morrow at 12 o'clock.

Lost.

The PRESIDENT. The question is on the amendment to the original motion to adjourn until 2 o'clock to-morrow.

Lost.

The PRESIDENT. The question recurs on the original motion that we adjourn until next Monday at 2 o'clock p. m.

Carried.

The Convention then adjourned until next Monday at 2 o'clock p. m.

EIGHTH DAY.

MONDAY, 2 p. m., March 11, 1895.

The Convention met in regular session at 2 o'clock p. m.

President Smith in the chair.

Prayer was offered by Rev. B. F. Clay, pastor of the Central Christian Church.

Mr. Haynes was excused on account of sickness.

Mr. ROBINSON (Kane). Mr. President, I will state that I was snowed under and could not come the direct route, so that I had to go around and I traveled 428 miles to get here.

The roll was then called and the following named members answered to their names:

Adams	Larsen, C. P.
Allen	Lemmon
Anderson	Lewis
Barnes	Low, William
Bowdle	Low, Peter
Boyer	Low, Cache
Brandley	Lund
Button	Maeser
Buys	Mackintosh
Call	Maloney
Cannon	Maughan
Chidester	McFarland
Christianson	Miller
Clark	Morris
Coray	Moritz
Corfman	Murdock, Beaver
Crane	Murdock, Wasatch
Creer	Murdock, Summit
Cunningham	Nebeker
Cushing	Page
Driver	Partridge
Eichnor	Peters
Eldredge	Peterson, Grand
Emery	Peterson, Sanpete
Engberg	Pierce
Evans, Weber	Preston
Evans, Utah	Raleigh
Farr	Richards
Francis	Ricks
Gibbs	Roberts
Goodwin	Robertson
Green	Robinson, Kane
Hammond	Robison, Wayne
Hart	Ryan
Haynes	Sharp
Halliday	Shurtliff
Heyborne	Snow
Hill	Spencer
Howard	Squires
Hughes	Stover
Hyde	Strevell
Ivins	Symons
James	Thatcher
Johnson	Thompson
Jolley	Thoreson
Kiesel	Thorne
Keith	Thurman
Kearns	Van Horne
Kerr	Varian
Kimball, Salt Lake	Warrum
Kimball, Weber	Wells

Lambert	Whitney
Larsen, L.	Williams.

Mr. EVANS (Weber). Mr. President, Mr. Spencer requested me to ask an excuse for him; he could not be here today, his distance of travel was 38 miles.

Mr. KIMBALL (Weber). Mr. President, I was not able to be here last Wednesday, Thursday, and Friday, and I would like to have the Convention enter an order now to excuse me for those days.

The PRESIDENT. My remembrance is, Mr. Kimball, that you were excused. It is so marked on the journal.

Mr. KIMBALL (Weber). Another thing, Mr. President, I answered 38 miles when my name was called and I desire to state to this Convention that I do not desire my mileage because it does not cost me anything to travel to and from my place, so that I ask that the mileage so far as I am concerned be stricken out.

Mr. VARIAN. Mr. President, I wish to present a report of the committee on rules.

Mr. KIMBALL (Weber.) Mr. Varian, the minutes have not been read yet.

Mr. VARIAN. I beg pardon, there was no rule requiring it.

The PRESIDENT. The minutes have not been read yet, gentlemen. We will have the minutes read.

The secretary then read the journal of the last previous session, which, after correction, was approved.

Mr. EVANS (Weber). Mr. President, I move that the name of chief clerk be changed to that of secretary.

The PRESIDENT. The report of the committee on rules will fix that.

Mr. EVANS (Weber). The report of the committee on rules will name him that officer all the way through, but an action has been taken, as I understand it, naming him the chief clerk, and as we find, it is very unusual in other conventions, and it is an office that is unusually attached to that of speaker.

Mr. VARIAN. Mr. President, I second the motion.

Mr. KIMBALL (Weber). Mr. President, I second the motion, and I would like to have you add to that that the minute clerk be known as assistant secretary.

Mr. EVANS (Weber). I accept the amendment.

Carried.

Mr. CHIDESTER. Mr. President, I think the law provides that it shall be chief clerk.

The PRESIDENT. The Enabling Act I think provides it.

Mr. KIMBALL (Weber). It makes no difference as to what he shall be called.

Mr. VARIAN. Mr. President, I call for the reading of the report of the committee on rules.

The report of the committee on rules was then read as follows:

Convention Hall Room,
Committee on Rules.

To the Convention:

The committee on rules herewith report certain standing rules, together with the report of the sub-committee accompanying the same, with a recommendation that said rules be adopted as the standing rules of the Convention, and that the sum of \$14.00 be allowed and paid as per report of sub-committee.

And we further recommend that the appointment of committees hereby be ratified.

JOHN HENRY SMITH,
Chairman.

March 11th, 1895.

To the Committee on Rules:

The undersigned herewith report the annexed standing rules and recommend the same be reported to the Convention for adoption.

The sub-committee also report that owing to the necessity for immediate action, they were obliged to employ a stenographer, and that the expense of so doing is \$14.00.

C. S. VARIAN,
D. EVANS,
CHARLES H. HART,
Sub-Committee.

The PRESIDENT. Gentlemen, what will you do with the committee's report?

Mr. VARIAN. Mr. President, I ask that the rules be read by sections and suggest that each section as read, if not objected to, be considered as passed; there are thirty-eight of them and by so doing time will be saved.

Mr. KIMBALL (Weber). Mr. President, I move the reading of the rules be dispensed with and be left over until the next meeting of the Convention, so that they can be printed and each member have a chance to read those rules and consider them.

Mr. BOWDLE. Mr. President, I second the motion.

Mr. KIMBALL (Weber). Mr. President, I make that motion as an amendment, that the reading be dispensed with so that we can have them printed. I move further that the expense of the stenographer, \$14.00, be allowed at this time.

Mr. THURMAN. Mr. President, I do not think this motion should prevail. Before the rules are printed I believe they ought to be read by sections. There may be some slight amendments proposed here and adopted by this Convention, and if that be true, they can then be printed as amended and we have not got so much to do this afternoon but what we can just as well consider these rules as anything else.

Hence, I am opposed to the amendment. I am not opposed to that part which appropriates the amount the sub-committee recommended as necessary expenses.

Mr. VARIAN. Mr. President, I didn't move to adopt these rules. I don't think such a motion should be made until they are read. I suggested that they be read and by way of suggestion only, that they be considered by sections.

These rules, as you will find, provide for amendments, and we supposed (and that was the occasion of our haste in the matter) that the Convention was waiting for the report of the committee on rules, in order that it might proceed with its business, and I hope this motion

of Mr. Kimball, the gentleman from Ogden, will not prevail. Let us determine at least that we have a basis this afternoon and adopt something. And we are just as ready to offer amendments now as we will be to-morrow.

Mr. KIMBALL (Weber). Mr. President, I made my motion for this reason; here are thirty-eight rules. No member of the Convention has seen those rules, and they have had no opportunity to consider them at all. And a mere casual reading of them will give the members of the Convention very little information in regard to them. Now, as I understand it, we have a public printer. By to-morrow morning the rules will be on the desk, where each member of this Convention will have a chance to read them over and consider them, so that he can intelligently suggest amendments, if there are any amendments; but to have them read over here casually by the secretary of the Convention, we must catch it as we can.

Mr. ROBERTS. Mr. President, I would ask if this committee on rules is a standing committee throughout the Convention?

The PRESIDENT. It will be, yes, sir; a standing committee.

Mr. ROBERTS. And if at any time any alteration could not be made either suggested by the committee or by the house?

Mr. EVANS (Weber). Mr. President, as a member of that committee, I desire to state that we thought it proper to make that report as early as possible, which we have done. It may be true, that there are inaccuracies in the rules, but thus far this Convention is like a ship in mid ocean, without a rudder; we have no rules to guide us at all, and it would seem to me to be the best thing to do—adopt some rules; the committee is a standing one. It can bring in a rule at any time, or any motion can be made at any time during the session of the Convention to the standing rules and be adopted; it would only

mean a waste of five or six hundred dollars to wait until morning. I think we ought to move even though we may move somewhat imperfectly, and I am opposed to the motion of Mr. Kimball, although I appreciate his motive in making it.

Mr. MURDOCK (Beaver). Mr. President, I think it would not take many minutes to read it over; we might find some corrections that would be very important before going to print, and I should be in favor of having the rules read and see what they look like, and then we will be better able to judge whether we want to send it to the printer at once.

Mr. KIMBALL (Weber). Mr. President, with the consent of my second I will withdraw my motion until the rules are read.

The PRESIDENT. If there is no objection, the motion may be withdrawn. Did you intend to withdraw that part of the motion which referred to allowing \$14.00 for the work?

Mr. KIMBALL (Weber). I withdraw the whole motion until the rules are read.

The PRESIDENT. The secretary will read the rules.

Mr. THATCHER. I would suggest that the secretary will be kind enough to read slowly and distinctly.

The secretary thereupon read the remainder of the report of the committee as follows:

STANDING RULES OF THE CONSTITUTIONAL CONVENTION OF THE TERRITORY OF UTAH.

POWERS AND DUTIES OF THE PRESIDENT.

RULE I. Unless otherwise ordered the Convention shall meet each day, except Sundays and holidays, at the hour of 10 o'clock a. m..

The President shall take the chair each day precisely at the hour to which the Convention shall have adjourned. He shall call to order and, except in the absence of a quorum, shall proceed to

business in the manner prescribed by these rules.

RULE II. He shall possess the powers and perform the duties herein prescribed, viz:

1. He shall preserve order and decorum, and in debate shall prevent personal reflections, and confine members to the question under discussion. When two or more members rise at the same time, he shall name the one entitled to the floor.

2. He shall decide all questions of order subject to appeal to the Convention. On every appeal he shall have the right in his place to assign his reasons for his decision. In case of such appeal no member shall speak more than once.

3. He shall appoint all committees except where the Convention shall otherwise order.

4. In case the president is absent or fails from any cause to take the chair at the appointed hour, the Convention shall appoint a president pro tempore.

5. When the Convention shall be ready to go into committee of the whole, he shall name a chairman to preside therein, subject to the right of committee to elect its own chairman.

6. He shall assign seats to authorized reporters of the press, who shall have the right to pass to and fro from such seats in entering or leaving the chamber. No reporter shall appear before any of the committees in advocacy of or in opposition to anything under discussion before such committees. A violation of this rule will be sufficient cause for the removal of such reporter. Removal for this cause shall be vested in the president.

7. He shall not be required to vote in ordinary proceedings, except where his vote could be decisive. In case of a tie vote, the question shall be lost. He shall have general control, except as provided by rule or law, of the chamber and of the corridors and passages in that part of the building assigned to the use of the Convention. In case of

any disturbance or disorderly conduct in the galleries, corridors, or passages, he shall have the power to order the same to be cleared, and may cause any person guilty of such disturbance or disorderly conduct to be brought before the bar of the Convention. In all such cases the members present may take such measures as they deem necessary to prevent a repetition of such misconduct by excluding the offending person from admission to the chamber thereafter, or imposing other penalties.

8. He shall also be ex-officio member and chairman of the committee on rules.

ORDER OF BUSINESS.

RULE III. The first business of each day's session shall be the reading of the journal of the preceding day and the correction of, the same. The order of business shall then be as follows:

1st. Presentation of petitions, memorials.

2nd. Reports of the standing committees.

3rd. Reports of select committees.

4th. Introduction of ordinance and propositions for insertion in the Constitution.

5th. Unfinished business.

6th. Special orders.

7th. Third reading of the ordinance and propositions to be inserted in the Constitution.

8th. Motions and resolutions.

All ordinances and propositions for insertion in the Constitution shall be read in full once, and a second time by title, which shall be considered the second reading, and referred to the appropriate committee without debate.

RIGHTS AND DUTIES OF MEMBERS.

RULE IV. Petitions, memorials, remonstrances and any other papers addressed to the Convention shall be presented by the president, or by any member in his place, read by their titles, unless otherwise ordered, and referred to the proper committee.

RULE V. Every member presenting a paper shall endorse the same; if a petition, memorial, remonstrance or communication in answer to a call for information, with a concise statement of its subject and his name; if a notice or resolution, with his name; if a proposition for insertion in the Constitution, with a statement of its title, his name, and, if taken from a constitution of any state, a reference thereto; if a proposition of any other kind for the consideration of the Convention, with a statement of its subject, the proposer's name, and the reference desired. A report of a committee must be endorsed with a statement of such report, together with the name of the committee making the same, and shall be signed by the chairman; a report by the minority of any committee shall be signed by the members rendering the same.

RULE VI. Every member who shall be within the bar of the Convention when a question is stated from the chair, shall vote thereon unless he is excused by the Convention, unless he be directly interested in the question; nor shall the roll of absentees be more than once called. The bar of the Convention shall be deemed to include the body of the Convention chamber.

RULE VII. Any member requesting to be excused from voting may make, when his name is called, a brief statement of the reasons for making such request, not exceeding two minutes in time; and the Convention, without debate, shall decide if it shall grant such request; but nothing in these rules contained shall abridge the right of any member to change his vote on any question previous to the announcement of the result. Any five members shall have the right to demand the yeas and nays upon any question before the result is announced. Any three members have the right to demand a call of the Convention, but if objection is made, the demand shall be sustained by

one-fifth of the members present; and upon a call of the Convention the names of the members shall be called alphabetically, and the absentees noted upon the journal.

ORDER AND DECORUM.

RULE VIII. No member rising to debate, to give a notice, make a motion, or present a paper of any kind, shall proceed until he shall have addressed the president and been recognized by him as being entitled to the floor. While the president is putting a question or a count is being had, no member shall speak or leave his place; and while a member is speaking no member or person shall entertain any private discourse or pass between the member speaking and the chair.

RULE IX. When a motion to adjourn or for recess shall be carried, no member or officer shall leave his place until the adjournment or recess shall be declared by the president.

RULE X. No persons, except members of the Convention and the officers thereof shall be permitted within the secretary's desk, or the room set apart for the use of the secretary, during the session of the Convention, and no member or other person shall visit or remain by the secretary's table while the yeas and nays are being called, except officers of the Convention in the discharge of their duties.

RULE XI. No member shall speak more than once on the same question until every member desiring to speak on such question shall have spoken, nor more than twice on any question, without leave of the Convention; provided, the mover of any question, or the chairman of any committee reporting the matter under consideration, may, upon giving notice thereof, speak last.

RULE XII. If any member in speaking or otherwise transgress the rules of the Convention, the president shall, or any member may, call him to order, in which case the member so called to order

shall immediately sit down, and shall not rise unless to explain or proceed in order. The president shall decide all points of order, which decisions may be appealed from.

RULE XIII. All questions relating to the priority of one question or subject matter over another under the same order of business, or a postponement of any special order or the suspension of any rule, shall be decided without debate.

RULE XIV. All questions of order as they shall occur, with the decisions thereon, shall be entered in the journal.

STANDING COMMITTEES.

RULE XV. The president shall appoint the following standing committees, to report upon the subjects named, and such other matters as may be referred to them, viz:

1. Rules and methods of procedure, to consist of five members, including the president, who shall be chairman.

2. Federal relations, to consist of seven members.

3. Preamble and declaration of rights, to consist of eleven members.

4. Legislative, to consist of fifteen members.

5. Judiciary, to consist of fifteen members.

6. Executive, to consist of fifteen members.

7. Elections and rights of suffrage, to consist of fifteen members.

8. Apportionment and boundaries, to consist of twenty-six members, one from each county.

9. Education and school lands, to consist of eleven members.

10. Public buildings and state institutions, to consist of eleven members.

11. Water rights, irrigation, agriculture, to consist of fifteen members.

12. Municipal corporations, to consist of nine members.

13. Corporations other than municipal, to consist of fifteen members.

14. Public lands, to consist of seven members.

15. Revenue, taxation, and public debt, to consist of fifteen members.

16. Salaries of public officers, to consist of nine members.

17. Mines and mining, to consist of fifteen members.

18. Labor and arbitration, to consist of seven members.

19. Printing, to consist of three members.

20. Militia, to consist of five members.

21. Manufactures and commerce, to consist of seven members.

22. Ordinances, to consist of seven members.

23. Schedule and future amendments, miscellaneous, to consist of nine members.

24. Accounts and expenses, to consist of three members.

25. Engrossment and enrollment, to consist of five members.

26. Compilation and arrangement, to consist of five members.

RULE XVI. The several committees shall consider and report without unnecessary delay upon the respective matters referred to them. All propositions for insertion in the Constitution shall be reported by the committees, cleanly engrossed, without rider, interlineation or defacement.

RULE XVII. It shall be the duty of the committee on printing to examine and report all questions of printing referred to them; to examine from time to time and ascertain whether the prices charged for printing and the quantities and qualities furnished are in conformity to the orders of the Convention and to the conditions fixed by it; to ascertain and report the number of copies to be printed and how distributed, and to report to the Convention from time to time any measures they may deem useful for the economical and proper management of the Convention printing.

RULE XVIII. It shall be the duty of

the committee on account and expenses to inquire into the expenditures of the Convention, and whether the same are being or have been made in conformity with the law and the orders of the Convention, and whether proper vouchers exist for the same; and whether the funds provided for the purpose are economically applied, and to report from time to time such regulations as may conduce to economy and secure the faithful disbursement of the moneys appropriated by law.

RULE XIX. Every ordinance, proposition, or other matter reported by any committee for insertion in the Constitution, shall, without further orders, be printed and referred to the committee of the whole.

COMMITTEE OF THE WHOLE.

RULE XX. The same rules shall be observed in committee of the whole as in the Convention, so far as the same are applicable, except that the previous question shall not apply, nor the yeas and nays be taken; nor a limit be made as to the number of times speaking. A motion to rise and report progress shall be in order at any stage, and shall be decided without debate, but a motion to rise is not in order until each section and the title have been considered, unless the limit of time has expired.

RULE XXI. There shall be a special calendar for the committee of the whole, on which shall be placed all propositions and other matters which by order of the Convention or under these rules are referred to such committee. Every proposition shall be considered and acted upon in the committee of the whole in its order upon the calendar. In committee of the whole propositions shall be read by the chairman and considered item by item, unless otherwise directed by the committee, leaving the preambles, if any, last to be considered. The body of the propositions shall not be defaced, or interlined, but amendments shall be noted by the chairman

or secretary upon a separate piece of paper or rider, and so reported to the Convention. Every proposition or other matter reported from the committee of the whole for the third reading by the Convention, shall be placed upon the Convention calendar, and be considered and acted upon under that order of business.

COMPILATION AND ARRANGEMENT.

RULE XXII. As soon as any entire proposition for incorporation in the Constitution shall have been disposed of, such proposition, if agreed to by the Convention, shall be referred to the committee on compilation and arrangement, to be by that committee embodied in the Constitution. The committee shall have full power to revise the language used in the various propositions and to arrange the same so as to be clearly expressive of the sense of the Convention, and to make the instrument complete and consistent within itself. The committee having completed its revising, shall report all the articles of the Constitution to the Convention, when it shall be fully read, and when it is thus read the question shall be on the whole Constitution, so revised and amended, and if the same shall be decided in the affirmative the Constitution as a whole shall be carefully enrolled under the supervision of the committee on engrossment and enrollment, and signed by the president and members of the Convention.

GENERAL RULES.

RULE XXIII. The final vote, agreeing to each proposition, and upon agreeing to the instrument as a whole, shall be taken by the yeas and nays, and no such proposition shall be considered as agreed to, nor the instrument as a whole, except a majority of the delegates elected vote therefor.

RULE XXIV. Equivalent motions, resolutions, or amendments thereto, shall not be entertained. If any ques-

tion contains several distinct propositions, it shall be divided by the chair at the request of any member; but a motion to strike out and insert, shall be indivisible. When a question is under debate, no motion shall be received but to adjourn, to lie on the table, for the previous question, to postpone to a day certain, to commit or amend, to postpone indefinitely; which several motions shall have precedence in the order in which they are arranged, and no motion to postpone to a certain time, to commit, or postpone indefinitely, being decided, shall be again allowed at the same stage of the proposition.

RULE XXV. When a blank is to be filled and different sums or times shall be proposed the question shall be first taken on the highest sum and longest time.

RULE XXVI. All proposed action touching the rules and order of business, shall be referred, as of course, to the committee on rules. Such committee may sit during the session of the Convention without special leave, and report at any time upon rules, or order of business, so referred to them. It will be in order to call up for consideration at any time a report from the committee on rules. No other committee shall sit during the session of the Convention without special leave.

RULE XXVII. A majority of the delegates elected to the Convention shall constitute a quorum. In all cases of absence of members during the sessions, the members present may take such measures as they may deem necessary to secure the presence of absentees, and may inflict such penalty as they may deem just upon those who, on being called on for that purpose, shall not render sufficient excuse for their absence. No proposition or other matter shall be inserted in the Constitution, unless by the assent of a majority of the members elected to the Convention.

RULE XXVIII. The previous question shall be as follows:

Shall the main question be now put? And until it is decided, shall preclude all amendments or debates. When the Convention shall decide that the main question shall not now be put, the main question shall be considered as still remaining under debate. The main question shall be on the passage of a proposition for insertion in the Constitution, resolution or other matter under consideration; but when amendments thereto are pending, the question shall first be taken upon such amendments in their order.

RULE XXIX. Except as otherwise by these rules specifically provided, Roberts' Rules of Order shall be the rule of decision of parliamentary questions.

OFFICERS OF THE CONVENTION.

RULE XXX. It shall be the duty of the secretary to keep the journals of each day's proceedings, which shall be printed and laid on the table of members on the succeeding day. He shall prepare and post on the bulletin board in the hall of the Convention, on the morning of each day, a calendar of the orders and business of the day, for the Convention, and a like calendar for the committee of the whole. All appointments of officers and employes shall be entered on the journal of the Convention with the date of appointment.

RULE XXXI. It shall be the duty of the stenographer of the Convention to be present at every session of the Convention. He shall take stenographic notes of the debates in the Convention and in committee of the whole, and with reasonable dispatch shall furnish copy of the debates written out in long hand, and file the same with the secretary.

RULE XXXII. At a reasonable time, to be determined by the Convention, at least five days before final adjournment, the committee on engrossment and en-

rollment shall be instructed to accurately engross and enroll the Constitution, and the same shall be reported by said committee to the Convention, and read through therein, and submitted to a final vote prior to its final adjournment. Upon such reading no amendments shall be permitted.

RULE XXXIII. The sergeant-at-arms shall, under the direction of the committee on printing, receive from the printer all matter printed for the use of the Convention, and cause the same to be distributed to the members immediately after reception by him; under the direction of the president, he shall enforce the rules of the Convention. He shall procure a bulletin board of suitable dimensions, to be placed by him under the direction of the president in some convenient place in the chamber.

CONVENTION CHAMBER AND PRIVILEGES OF ADMISSION TO THE FLOOR.

RULE XXXIV. The following classes of persons besides officers and members of the Convention shall be entitled to admission to the floor of the Convention, during the sessions thereof, viz:

1. The governor, secretary, auditor; treasurer, and ex-governors.
2. The justices of the supreme court, and ex-justices thereof:
3. The delegate to Congress and ex-delegates.
4. Members of the Utah commission.
5. Reporters for the press, as provided by these rules.
6. Ladies.

No other person shall be admitted to the floor during the sessions of the Convention unless the Convention shall otherwise order.

RULE XXXV. No reporter of a newspaper or other person who is interested in pending or contemplated constitutional enactment, or who is employed by or receives any compensation from any corporation except a newspaper, news, or press association, shall be ad-

mitted or entitled to the privileges of the floor of the Convention.

RULE XXXVI. The doors of the Convention shall be kept open to the public during all its sessions.

RULE XXXVII. The standing rules of the Convention and the regular orders of business shall not be suspended or interrupted unless by a vote of two-thirds of the delegates present.

RULE XXXVIII. Every proposition to change, alter, or add to the standing rules of the Convention shall be referred to the committee on rules without debate; and every report thereon, from said committee, shall lie over one day before action thereon.

Mr. KIMBALL (Weber). Mr. President, I offer the following amendment to rule No. 1:

I move that rule No. 1 be amended by striking out the words "10 o'clock a. m." and inserting in lieu thereof, "2 o'clock p. m."

The PRESIDENT. Gentlemen, you have heard the motion—was there a second?

Mr. VARIAN. I second the motion.

Mr. THURMAN. Mr. President, I ask that rule 1 be read.

Mr. VARIAN. Mr. President, on behalf of the committee on rules, I desire to present to the Convention the reason that moved the committee to fix that hour. It was considered that if the Convention met at ten o'clock, all the members, or at least a large number of them would be present, and it would be easy to gather them all into the committee rooms. For some time, possibly a week or more, there will be little work for the Convention, as such, to perform. It is very necessary that the several committees should be actively and constantly at work preparing work for the Convention during this time. Now, it was supposed that if the Convention would meet at some hour in the morning it would call together all the members. The chairmen of the

several committees would be here, and there would be no excuse for absentees or persons being lax. For that reason and none other, it was considered that hour would be a convenient hour for meeting; it was further thought, Mr. President, that if the Convention met in the afternoon at two o'clock it would break in upon the work of the committees. Some of these committees will have quite a strain upon them and it is probably better that they should be permitted to have continuous working hours without interruption.

Mr. KIMBALL (Weber). Mr. President, the very reason that I made the motion that I did to amend the rule was for the accommodation of the committees. Now, I assumed that most of the work of this Convention was going to be done by the committees. The only opportunity they will have for meeting is in the evenings before the Convention meets in the morning, and it is for that very reason, that I desire to change the hour from ten o'clock to two o'clock, to give these committees ample opportunity to perform their work and bring it into the Convention.

Now, if we can meet at ten o'clock, the Convention will probably be prolonged through the whole day, or up until three or four o'clock in the afternoon, and leave no opportunity for the committees to meet or do their work. Now, take for example a legislative assembly, their hour of meeting is almost invariably two o'clock in the afternoon, for the very reason that they give all the committees of the convention or of the legislature an opportunity to work from the time of adjournment in the afternoon until two o'clock the next afternoon. Now, I take it if we meet at ten o'clock, then the only opportunity the committee will have to meet will be in the evening. My observation has been and my experience has been that it is almost impossible to get a full committee meeting in the evening after dinner, and the work of

the committees is delayed for that very reason. And that is why I make this motion.

Mr. MURDOCK (Beaver). Mr. President, I believe the motive is good in him who has amended the time of meeting, but I do not know what kind of a body of men has come together, but it has been my experience that committees are a little dilatory upon this ground; members of committees will say to themselves, "Well, perhaps there will be enough without my attendance." I think it would facilitate the matter better to have the Convention convene, if they should only convene for the purpose of bringing the members together, and then they could be discharged—take an adjournment—and the committees then could meet in the rooms that are prepared. If we undertake to depend upon the committees, I am afraid there will be a lack of their attendance, and I think they will be much better prepared to go into their committee room from this body than they will to leave it to various committees. I think the motive is all right, but I don't think it will effect the matter so thoroughly as to have the Convention meet in the morning.

Mr. THURMAN. Mr. President, I favor the motion to amend. I think if we meet here at ten o'clock we will take up the time of the forenoon with something, whether it is profitable or not. We will run to the hour for lunch, then separate, the committees will have the same difficulty, if they are reluctant about meeting, in getting back here in the afternoon that they have now in the forenoon.

For my part, I see but very little work to be done, at least at the present time, except by committee. I agree with the gentleman from Weber in that respect. I think as it is, the most important work that we have to do at present (work by committee) that we should take that part of the day when men feel most like work, that is, in the morning

and come here and meet. Now, it seems, when we meet together in a body it is very difficult for us to separate—to tear ourselves away from one another; there seems to be sort of a fellow feeling, of brotherly love—or something, we stay together whether we have anything to do or not—I mean anything important.

Mr. EVANS (Weber). Mr. President, that would apply to the afternoon as well as the morning.

Mr. THURMAN. Very well, when we have got our committee work done—that portion which is important, if we want to meet together in the afternoon, I don't care if we stay together all night, whether we have anything to do or not, but I believe the committee meetings ought to be in the forenoon; I believe that is the time to get down to solid work, such as our committees have to do, and I don't see why the excuse should be raised here, that men will not come together. Why will not they come together as well in the committees as in the Convention? What is the reason for not coming together in committees? I think the reason is that we have not yet established times for holding our committee meetings so that committee members understand it. It is true that no one committee will be able to get all its members together, hardly, at any time, for the reason that other committees are meeting and some of the members of one committee will be members also of another. That will be the case, however, whenever we meet.

The PRESIDENT. Gentlemen, are there any further remarks upon this?

The motion is to amend by striking out from the report of the committee, the words, "ten o'clock a. m." and inserting the words, "two o'clock p.m."

Carried.

Mr. GOODWIN. Mr. President, to save time, I move that these rules as they have been read be adopted for one day.

Mr. KIMBALL (Weber). Mr. President, I second the motion.

Mr. HOWARD. Mr. President, I would like to hear rule 22 read.

Mr. IVINS. Mr. President, as an amendment to Judge Goodwin's motion, I move that these rules now be passed upon separately; that each rule be read and passed upon separately, as it is read.

Mr. EVANS (Weber). Mr. President, as an amendment to that motion, I would move that each rule be read and if no objection be made, that it be considered adopted.

The PRESIDENT. There has been a request to have rule 22 read. If the gentlemen will give attention it will be read.

The secretary then read rule 22.

Mr. HOWARD. Mr. President, that provides that whenever this matter is referred to that committee that they have the power to revise it and correct the language. I would make a motion that we add to that, "provided that if any serious blunder has been made in the wording of the article so referred, it be sent back to be corrected by the Convention, while in session."

Mr. KIMBALL (Weber). Mr. President, I raise the point of order.

The PRESIDENT. There is a motion before the house. The motion is out of order.

Mr. RICHARDS. Mr. President, I am in favor of the motion made by the gentleman from Salt Lake, to adopt these rules for one day. There are several things in the rules that seem to me need a little change. If I understand them right as they were read, they are not altogether harmonious one with the other. It is impossible to offer an intelligent amendment at the present time, and if the gentleman will include in his motion the printing of the rules that we may have them before the next meeting, I should certainly favor that motion.

Mr. EVANS (Weber). Make it two days.

Mr. IVINS. Mr. President, I would like to ask what benefit can be derived from adopting these rules for one day. If the gentlemen want the rules printed, so that we will have them before the house, let us continue with the rules that we now have and let a motion prevail to have these rules printed and laid on the desks of the members. I can see no necessity for adopting them for one day.

Mr. GOODWIN. Mr. President, the rules probably will only have slight amendments at best; they will be the guide of the Convention; to adopt them to-day puts the committee in the right line and one day gives every member a chance to read the rules in the morning and to come here with an intelligent opinion upon them. It was simply to save time that I made the motion.

Mr. RICHARDS. Mr. President, I would like to offer a suggestion and ask the gentleman if he will accept as an amendment two days. It may be that the rules will not be ready in time to-morrow to enable us to examine them properly.

Mr. GOODWIN. Yes, sir; I will accept that.

The PRESIDENT. There was an amendment, if I recollect correctly, to Judge Goodwin's motion.

Mr. GOODWIN. It wasn't seconded.

The PRESIDENT. It wasn't seconded, all right. Gentlemen, you have heard the motion that the rules be adopted for two days, and that they be printed.

Mr. JAMES. I only want to say, Mr. President, that I hope that the motion will prevail.

The motion was carried.

Mr. WELLS. Mr. President, are reports of committees in order?

The PRESIDENT. Yes, if there are any committee reports, they should be sent to the table.

Mr. WELLS. I have a report of the committee on official stenographer.

Mr. EVANS (Weber). Mr. President, these rules are now in force; I would suggest that the chair take up the order announced by the rules.

Mr. RALEIGH. Mr. President, I noticed in the rules as read a rule in relation to precluding members from speaking twice on a question until all the rest had spoken. I presume there may be some who would not desire to speak on a question, hence I would suggest that these words read, "after the speaking of all who desire to,"

The PRESIDENT. Yes, sir; they so state. Do you know the number of the rule?

Mr. RALEIGH. I do not. It says that no member shall speak twice until all others had spoken.

By request the secretary read rule 11.

Mr. RALEIGH. All right; I did not hear that part of it.

The PRESIDENT. Gentlemen, the presentation of petitions and memorials is now in order.

Reports of standing committees are now in order.

The secretary then read the following report from the committee on printing:

Constitutional Convention,
Committee Room, March 11, 1895.

MR. PRESIDENT:

Your committee on printing beg leave to report as follows:

We requested bids from the printers of Salt Lake City on the temporary printing of 350 copies of each day's minutes of this Convention, said minutes to be printed in small pica or 11-point type, solid, type page 4 x 7 inches; 25 x 38 book paper, fifty pounds to the ream; folded and stitched. That in pursuance of said request your committee received bids from the following publishing houses:

The Salt Lake Lithographing Company, the Star Printing Company, the Tribune Job Printing Company, and the Deseret News Printing Company; that the latter company being the lowest bidder we awarded the printing of minutes, until otherwise ordered by this Convention, to the said company at the rate of \$1.87½ per page for the 350 copies.

The bids of said publishing houses are herewith attached and made a part of this report.

Respectfully submitted,
RICHARD G. LAMBERT,
Chairman.

Mr. HART. Mr. President, I suggest it is not necessary to read the bids from the various houses, unless it is desired. It will simply take time.

The PRESIDENT. Does anybody desire to hear these bids read?

Mr. HART. I move, Mr. President, the report be accepted and adopted.

Carried.

The PRESIDENT. Any other reports of the committees?

The committee on official stenographer presented a report, which was read by the secretary, as follows:

MR. PRESIDENT:

Your committee on official stenographer respectfully report that we have given the subject attention and recommend the appointment of Mr. Frank E. McGurrin, of Salt Lake City, to be the official stenographic reporter of this Convention; that he be required to take the oath of office and that it shall be his duty to furnish a long-hand typewritten verbatim report of the proceedings of this Convention.

That his compensation be fixed as follows:

Ten dollars for each day the Convention is actually in session and 15 cents per folio for transcribing his notes into long-hand; provided, that the entire cost for both per diem and transcribing shall not exceed thirty dollars per day on the average.

That he be required to give bonds in the penal sum of \$2,000 with good and sufficient sureties, to the acceptance of the secretary of the Territory, conditioned for the efficient and faithful performance of his duty and guaranteeing the Convention against recovery of any compensation for services in this connection exceeding thirty dollars per day for the days actually in session, and also for the delivery into the hands of the secretary of the Territory, within ten days after the final adjournment of this Convention, a complete long-hand typewritten verbatim report of the entire proceedings of this Convention.

WELLS,
Chairman.

Mr. KEARNS. Mr. President, I move its adoption.

Mr. VARIAN. Mr. President, I second the motion.

Mr. HART. Mr. President, I would like to inquire of the committee if they have received any terms from any stenographers except Mr. McGurrin. It would seem to me that the charges for the gentleman for transcribing are rather high—15 cents per folio, as I remember the report to be. I think perhaps we could get this work done for five cents per folio. In fact, I am informed that we can get the minutes transcribed at that rate. Ten cents, Mr. President, is the rate fixed by law for the transcribing of the notes of the official stenographer of the court, as I remember it. It seems to me to go above that and give fifteen cents per folio—fifteen cents for each hundred words that are transcribed, we are giving more than it is worth.

Mr. KEARNS. Mr. President, this committee was empowered to employ Mr. McGurrin or whoever they saw fit, and they have done so and reported to us. They were entrusted to do this by the Convention. It is a very responsible position and I trust we will adopt the report of the committee.

Mr. EVANS (Weber). Mr. President, I want to inquire whether the report of the committee is unanimous?

The secretary can inform us.

The SECRETARY. It is signed by Wells, chairman.

Mr. EVANS (Weber). It is a unanimous report?

Mr. WELLS. Yes, sir.

Mr. SQUIRES. Mr. President, do I understand that the committee is adverse to giving the information called for by Mr. Hart? If we can get this work done just as well for a less figure, I should certainly be in favor of doing it.

Mr. KIMBALL (Weber). Mr. President, I understand the committee were authorized to—

Mr. WELLS. Mr. President, I will say in answer to the gentleman that we

did receive other bids, but the committee thought it prudent not to furnish that information in detail to this Convention out of delicacy to the bidders; we have decided the question as we think upon its merits. We think Mr. McGurrin is at least—we may say the best official stenographer here and we want the best. We decided that it is not a question that we can let to the lowest bidder the same as digging a ditch, and yet having received bids and having made tests we came to the conclusion that Mr. McGurrin at this price per day was not excessive, as compared with that paid to other stenographic reporters at other conventions.

Mr. THATCHER. Mr. President, for the information of the Convention, would it be in order to have the names of the committee to whom this extraordinary power was given?

Mr. BOYER. Mr. President, I apprehend that the best move that this Convention can make, is to endeavor to get the bottom facts of this transaction. We have seemingly a fair statement from Mr. Wells; however, I will state individually it is unsatisfactory to me. If there were other bids, this Convention is entitled to the bids—to a statement as to what the work was offered to be done for. If there is such a delicacy on the part of the committee that they cannot give the names, that may be a matter with themselves. And as to the question of letting this work upon the basis of letting a contract for the digging of a ditch—I apprehend that it would take a spade and some muscle to dig a ditch, and when the ditch was completed, if done in conformity with contract, this work is equally done whether it be a five dollar man or with a one dollar man, and if we have equal ability in this Convention, or if there have persons of equal ability offered to do this work it is not necessary that we must have the best and the highest priced individual. What we want is to have the work well and faithfully done.

I apprehend that there are other persons that are capable of doing this work and if they have made bids and propositions to do this work, I think it is but fair that this Convention know the whole of it, and then they decide if they choose to the best financial interests, in connection with the interests of the best labor to be done for this Convention.

Mr. CHIDESTER. Mr. President, I do not know whether I am rightly informed in regard to this, but was this committee empowered to employ this stenographer without any further action on the part of this Convention?

Mr. WELLS. No.

Mr. THURMAN. We haven't done it.

Mr. CHIDESTER. Now as for one, I didn't understand that to be the case, and I apprehend that if we adopt this report, that the employing of this stenographer will cost us nearly three thousand dollars, and I deem that an excessive amount for that work; and if there is any one that can do that work—I believe that other conventions have done it very much cheaper than that, and that this can be done cheaper, and if that is the case, we should have it done cheaper, and I would like to know if there have been other bids put in at a less figure, and if they are competent to do the work; that is the question with me.

The PRESIDENT. The minutes show that Mr. Roberts moved that the appointment of an official stenographer be referred to a committee of five to decide upon the appointment and compensation of the same.

Mr. JAMES. Mr. President, I will state for the benefit of my friend who has just spoken and the other gentleman over here, that I didn't understand at the time that we were appointed, that this question would come up at all before this Convention. My understanding was that we were appointed a committee to make an examination and employ an official stenographer for this Convention. The

committee have proceeded upon that course so far as I understand it. Now, one gentleman says that it will cost about three thousand dollars. Another states to this Convention how impossible it is for those that are associated upon committees to understand the detail work of a committee. We have figured that matter out to the best of our ability and we think that it will cost anywhere from eight hundred to a thousand dollars at the rates we have agreed upon with Mr. McGurrin. Now, gentlemen, we had to proceed upon this line. These stenographers were put under contest, their work was submitted to us, and from their work we had to pass upon who in our judgment could do that work efficiently. Now, if the Convention had determined to proceed in the course that certain gentlemen think should be proper you should have had these contests made before you all where you could have judged for yourselves and not have sent out a special committee to have these contests, and make a report to you. Now, I don't care to go into the argument about how or what the mode of our procedure was, it is rather a delicate matter and all I have got to say is that my best judgment was that we should employ Mr. McGurrin at the rates that the committee have reported to you.

Mr. RICKS. Might I ask Mr. James a question? I understand there were several other applicants for this position and they were tested as to their ability to report the proceedings of this Convention. I would like to ask now, if any of them and all of them did not report the discussions of the day on which the contest was made?

Mr. JAMES. Yes, sir; that was the test of their ability.

Mr. RICKS. They all made a satisfactory report?

Mr. JAMES. Well, now I decline to answer that question, most emphatically.

Mr. RICKS. They all reported the speeches, do I understand you?

Mr. JAMES. They all reported, and I do say that is going a little too far.

Mr. RICKS. What I wish to arrive at is this; I believe that every gentleman upon the floor of this house acknowledges that Mr. McGurrin is probably the best reporter in the country, but I believe that there are other reporters in this city that can report the proceedings of this Convention satisfactorily, and I understand also—

Mr. THURMAN. Let me ask you a question, have you read them?

Mr. RICKS. Read what?

Mr. THURMAN. The reports.

Mr. RICKS. No, sir; I was not at the meeting, and do not know anything about the report.

Mr. THURMAN. You do not know anything about it then.

Mr. RICKS. But I understand there are other reporters in the city who can report satisfactorily the proceedings of this Convention, and for less than the rates the committee reports as charged by Mr. McGurrin. Now, if that is so, I believe that we ought to give preference to the lowest qualified bidder for this position.

Mr. THATCHER. Mr. President, the idea was thrown out that the power was given to this committee to employ a stenographer without any further action of this body. Am I to understand that that is the position taken now?

The PRESIDENT. From the character of this motion, it would seem to be the case; that would be the impression of the chair.

Mr. THATCHER. I understand Mr. James says they were not so empowered; is that so?

Mr. JAMES. I said that I thought we were so empowered.

Mr. ROBERTS. I did not catch the question of the gentleman a moment ago.

Mr. THATCHER. The gentleman on my left here claimed that the committee

when appointed were empowered to employ the stenographer without any reference to a future action of this body; is that correct?

Mr. ROBERTS. Mr. President, I do not so understand the powers of the committee.

Mr. THATCHER. If that is correct, of course that is the end of the matter; it is useless to discuss it.

Mr. ROBERTS. As a member of that committee, Mr. President I wish to disclaim any such pretensions to power. My understanding was that we were merely to investigate the abilities of the respective applicants and to make inquiries concerning the probable expense, and to report to this Convention, and that our powers extended no further than that.

Mr. THATCHER. It seems to me, Mr. President, and it must be very evident to those who have taken the matter under consideration, that there will be a large deficiency that will have to be supplied by the taxpayers of this Territory, that is to say, that the appropriation of Congress will not cover the expenses of this Convention; if the committee files a unanimous report and they are satisfied that the employment of the party named is the best that can be done, having of course, in view efficiency, that the reports may be correctly had, I desire to say but very little upon this question, but I must confess that it reminds me of a little bit of an anecdote that I once heard. A congregation of religionists employed a new minister and one of the flock wanted to know why he did not preach in Latin; "Why," he says "do you understand Latin?" He says, "no, but then we pay for the best and we ought to have it." If we can get this reporting done—and it is certainly very clear—must be to every gentleman on this floor that fifteen cents a folio is excessive, whatever may be said of the charge of fifteen dollars per day.

Mr. WELLS. Ten.

Mr. THATCHER. Ten, excuse me.

Mr. CANNON. Fifteen dollars was the price in Wyoming.

Mr. THATCHER. Everything in Wyoming is an expensive luxury. Utah is moving on an entirely different basis. I think we started out on the proposition that we would be economical. I am willing, however, in view of the unanimity of the report of the committee to vote for their report, but I think that in the future we should have things moved so that our constituents, the inhabitants of Utah, and the voters of Utah, will be satisfied, and with respect to this honorable body of men, that they should keep the expenses of this Convention down as an example of what may follow, and that we don't pay excessively for labor when the market is full of competition.

Mr. VARIAN. Mr. President, I simply want to call the attention of the Convention to the fact that this kind of reporting is a very different sort of reporting than that usually done by reporters. This reporter is obliged to attend the sessions of the Convention and stay here if it be one hour or ten, when he gets through, he has to employ out of his compensation a corps of assistants in order to comply with the orders of the Convention, and will have to spend hours in dictating to persons employed by him. Unlike conventions of a similar kind of great and wealthier states, where large funds are at the disposal of the Convention, the debates are not prepared and written out so that the members can see them each day, as in New York for instance, and Kentucky and elsewhere. In those states upon occasions of this kind within a stated period, twenty-four hours or forty-eight hours, the rules require that the reports shall be written out and placed on file with the secretary where every member can go and make his corrections, and revise his remarks. You will observe that these conditions do not exist here, and cannot exist. We

have not the money to pay for it, so that you will have to rely upon the reporter himself, his integrity and his capacity, which is most important, because, I presume the integrity part of it could be easily satisfied with any of the competitors. You will have to rely upon him absolutely. It is not as if you were able to go and see and make corrections if he makes mistakes. If you have got to get a man that won't make a mistake, and I undertake to say that so far as the observation of the bar of this Territory has gone and the knowledge we have from the courts elsewhere, that this gentleman who is named by this committee is one of the foremost men in the United States in his profession. My recollection is, there are none who excel him and but one or two in the great competitive contests of the last three or four years who have at all approached him. Now, that being so, the committee being your eyes and your ears, upon whom you have devolved the task of deciding this question, it seems to me we may safely leave it with the committee.

Mr. KIESEL. Mr. President, I move you sir, that we refer this report back again to the committee. I believe in view of what has transpired here on the floor they can drive a better bargain when they report again.

Seconded.

Mr. EICHNOR. Mr. President, the best is the cheapest; the gentlemen on that committee, Mr. Wells, Mr. Roberts, Mr. Thurman, Mr. Eldredge, and Mr. James, are a perfect guarantee to me that they have done the best for this Convention that they possibly could. We have spent nearly half an hour here and possibly wasted fifty dollars of this precious thirty thousand dollars on this question. We refer it back and before we reach a final conclusion, we will have spent a day in wrangling over this matter and six hundred dollars is gone. I state frankly that if I was to receive thirty thousand dollars

for one day I couldn't do it. If the committee comes to the conclusion that no one else but Mr. McGurrian can do it, I am satisfied and am willing to vote for the report of the committee.

Mr. GOODWIN. Mr. President, in discussing the matter of economy we ought to consider it both ways. An error on the part of a stenographer will kick this whole Convention into a turmoil, and fussing for three hours is more than a stenographer's cost for a week. In the first place, a stenographer is just exactly as a famous man, that was here a few years ago, used to say about mines; he said, there were just two kinds, one was worth anything in the world, and the other wasn't worth anything in the world. A correct stenographer is just as absolutely necessary for the business of this Convention—very much more necessary than any other one officer or any other one duty performed in this Convention. Here is a committee of five gentlemen representing both parties, all of them shrewd business men, who have investigated this whole matter and have reported precisely as the Convention directed them to report. If the matter is referred back they will either simply come in to-morrow and make a duplicate report or will ask to be relieved. It seems to me that it is almost a discourtesy to this committee, considering its composition, for us to debate this matter at all.

Mr. SQUIRES. Mr. President, I would like to ask the committee whether this thirty dollars a day limit refers to the transcribing of the minutes or whether that means the total compensation for the day.

Mr. THURMAN. Total compensation.

Mr. SQUIRES. The total compensation is thirty dollars a day?

Mr. JAMES. It does not say that it shall be thirty dollars a day, but it shall not exceed thirty dollars a day on an average. We made that so as to

limit it and keep it within bounds. Now, it is possible that it may not exceed fifteen dollars but we put it in that way.

Mr. SQUIRES. Mr. President, I was trying to reconcile the figures with the statement made by Mr. James when he was on the floor before that the entire expenses would not exceed eight hundred dollars.

Mr. JAMES. No, I said eight hundred to a thousand dollars.

Mr. SQUIRES. I don't suppose that there is any gentleman in this Convention supposes that the labors of the Convention will cease in thirty days; thirty days at thirty dollars a day is nine hundred dollars; if we go sixty days, we will find that the limit given by the committee will be very much exceeded. Now, I find that at fifteen cents a folio that twenty dollars extra compensation will amount to 133 folios. We have, as the newspaper rumors give us (and I presume they were accurate upon this point), one candidate at least before this committee who has made an offer to transcribe for five cents a folio; that will make a saving on each day's work within the limit prescribed for Mr. McGur-in, of about fourteen dollars per day. That is the reason I ask this committee if they are averse to giving us the information in regard to this matter which they have. I don't suppose any candidate who was before that committee is at all afraid or ashamed to have the record made come before the Convention, and as the gentleman from Cache has said, I believe we should set an example in this Convention of a proper degree of economy in expenses. It will be considered, no doubt, as a precedent for future legislative bodies in this Territory. I am not in favor of employing a man that speaks Latin when we can get one that speaks plain English—when we can get the man that speaks English for a reasonable compensation. If there is question on

the part of this committee as to the qualifications of these or other candidates, I have nothing further to say. If they will state to this Convention that the other applicants are not qualified for that work, I will withdraw my opposition which I may feel, but otherwise, I shall be in favor of employing the cheapest talent that is correct.

Mr. ROBERTS. Mr. President, I wish to ask the chair, in the first place, if the amendment offered by the gentleman on my right is before the house, to refer this report back to the committee?

The PRESIDENT. It is properly before the house, as I understand it.

Mr. EVANS (Weber). It was not seconded.

The PRESIDENT. It was seconded.

Mr. KIMBALL (Weber). Mr. President, Mr. Kiesel did not offer this motion as an amendment; it was an independent motion and out of order.

Mr. KIESEL. Mr. President, I move it as a substitute.

Mr. ROBERTS. If the motion is on the question of referring it to the committee I presume it is not debatable, but if it is, I have some remarks to make on that subject.

The PRESIDENT. It was moved to adopt the report of the committee. Mr. Hart made some remark—whether he made a motion in regard to the matter I am not clear, then followed some discussion and Mr. Kiesel moved as a substitute that it go back to the committee for consideration. The question is on that substitute and is not debatable although we have been debating.

Mr. THURMAN. I think it is debatable. What rule is there that shuts off debate on a proposition of this kind? We have a rule here that says certain things referred to the standing committees shall be referred without debate.

The PRESIDENT. It is debatable according to the rule.

Mr. ROBERTS. Then, upon that proposition, Mr. President, I have this to say, that in this question of employ-

ing a stenographer, I think I may claim the distinction of standing upon the question of economy, as in consequence of the expense attendant upon that work, I was scarcely favorable to employing a stenographer at all. When, however, the Convention voted down a motion of mine that the consideration of the whole question be referred to a committee and they decided they would have a stenographer, then I desired that the question of compensation and the ability of the one that should be employed be referred to a committee instead of undertaking to decide that question here in the Convention.

I went into the consideration of this question in that committee determined to do all that I could in behalf of economy, but we had tests made and after we got into the consideration of the subject it seemed to me that the one proposition above all others should be that the work be efficient, and that to have a report of the proceedings of this Convention which could in any manner be unsatisfactory or questionable, was a waste of the entire outlay. If there could be any doubt as to the efficiency of the work performed, upon that ground I think my fellow members on that committee will bear me out that I did all that I could in the way of standing for economy. We finally agreed to this report. That the committee, gentlemen, made such careful estimates as we could upon the amount of matter that would probably enter into each day's record, and guarding the expenses as we have done, by providing that the compensation both for the reporting and transcribing shall not exceed thirty dollars per day on the average, gentlemen will see that if this Convention shall sit forty days, the expense will not exceed twelve hundred dollars; if we shall sit for sixty days, then the compensation of the stenographer shall not exceed eighteen hundred dollars. Therefore, sir, when it came to the question whether we should pay this amount for

a report of the proceedings of this Convention that could be absolutely trusted, I waived all opposition and would not cast any possible reflections upon the reports of these debates to take place on this floor by withholding some three or four hundred dollars in the way of economy, and therefore, I assent to this report of the committee upon the ground of economy. These are my reasons for action in this matter.

Mr. CREER. Mr. President, with perfect deference to the judgment of this committee, I believe that as they have expressed themselves, they had the deepest interests and welfare of this Convention at heart in coming to this conclusion. It seems that the point of the remarks would refer more especially to the taking down of the debate and proceedings of the Convention. One thing, however, that appeals to our judgment, that is the transcribing of the minutes by typewriting at the rate of fifteen cents per folio. Now, we are all able to judge upon that, as to whether that should be excessive or not. The proposition places itself upon this, that it will equal at least the compensation of eight members upon this floor—the compensation that will be given this officer. I find in reference to Wyoming—I may say that their proceedings were very creditably done—that just one-half was the compensation of the official stenographer of that convention. I may read from the minutes of that convention, if you will permit me:

Your special committee on ways and means to whom was referred the matter of employing an official stenographer—

Henry G. Hay, Chairman,
Cheyenne, Wyoming:

DEAR SIR—I beg to submit the following proposition for your final consideration: I will make a stenographic report of the proceedings of the convention and furnish a typewritten transcript of the same, at the rate of fifteen dollars per day for each day actually employed in making such stenographic reports,

the work to be completed within thirty days after the adjournment of the convention.

Yours respectfully,
MRS. LOUISE S. SMITH.

And that was adopted. Now I don't know why this delicacy—the matter of delicacy—economy it seems to me would precede that consideration, as to the competency of those men, of the parties who made the application. I am in favor of referring this matter or taking further action upon it. I think it is excessive and not in accordance with the principles of economy that we have desired to establish.

And this will be a precedent I think we cannot afford to follow during the remainder of the Convention. I am in favor that something be done, rather than accept this report at the present time.

Mr. THURMAN. Mr. President, as a member of that committee I desire to say a few words upon this question. So far as the Wyoming case is concerned, I take it that the lady in that case was to receive fifteen dollars a day for the time actually employed, both before and after the convention adjourned. That is not the meaning of this proposition. Not to exceed thirty dollars a day for the time actually occupied by this Convention; a contract to be entered into that the work be completed within ten days after the adjournment instead of within thirty days, as in that case. If we are in session thirty days, the compensation would be nine hundred dollars, although the reporter will probably be forty days actually engaged. He would have the ten days after the adjournment.

Mr. ELDREDGE. It would be not to exceed nine hundred dollars, Mr. Thurman.

Mr. THURMAN. Now, coming back to the question. Members seem to desire to know why this recommendation has been made, why the com-

mittee keeps back information. I don't blame members for that; if I were not a member of the committee I would be just that inquisitive; it is the right of every member to know particularly on questions involving the expenditure of money. There is no secret about the matter. It is true the bids were secret, it was simply a question of qualification—capacity to do the work to the satisfaction of the committee. Gentlemen, it may be that that committee were too hard to satisfy. So far as I am concerned, I felt like this, I didn't desire when the journals came into the hands of the members of this Convention one of these days and they looked over to see those nice little gems of oratory, and wit, and wisdom, that have dropped from their lips here, I wouldn't want them to be howling maledictions at this committee.

Mr. HALLIDAY. Mr. President, I am feeling very ill—very bad, I would like to be excused.

The PRESIDENT. The gentleman can be excused.

Mr. Thurman, you may proceed.

Mr. THURMAN. We proceeded in this manner with the utmost caution and deliberation and I believe every member of the committee proceeded with the most profound regard for economy. It seems to have been a case in which it wasn't a question of somebody having a pet; it was a question or a case in which members of the committee seemed all desirous and anxious to get the best service for the least money; and if the service was good enough, the least money for which it could be obtained was the guide by which the committee was governed. We made a test on the first day's proceedings, that wasn't satisfactory, explanations were made, we realized that it was possible that for the first day's proceedings parties hadn't acted with understanding of just exactly what would be required. And then we selected another day and let in various parties to take notes of the proceedings

to report to us in long hand the result of their work. Now, I wish to say, gentlemen of this Convention, that the committee make this recommendation after having examined the work and based their conclusions upon the work and the price thereof, and while I don't wish—

Mr. KIMBALL (Weber). Mr. President, I like to listen to Mr. Thurman all right; I don't desire to cut him off, but I insist that the gentleman is out of order. Mr. Kiesel's motion was equivalent to a motion to recommit. I submit that that is an undebatable motion. While I would like to hear the gentleman—

Mr. THURMAN. Seeing as you have allowed me to go this far, won't you just let me go on a little farther?

Mr. KIMBALL (Weber). I was speaking to the chair, not for your benefit particularly, but there may be some other long winded man here.

Mr. THURMAN. I wish to say this, Mr. President—

Mr. KIMBALL (Weber). I call for a ruling.

Mr. THURMAN. And I rise for a personal privilege on this question. The committee has been somewhat attacked by members on the floor, and the question has been raised as to whether they were governed by proper principles in this matter, and I speak as one of the committee and I think the committee ought to be heard from and understood. Now, I was going to finish in a minute, but if you want to shut me off all right.

Mr. CANNON. I believe that the chair ruled previously that the question was debatable.

Mr. THURMAN. I so understood it.

Mr. KIMBALL (Weber). I think the chair was laboring under a mistake at that time, and I raise the question again that it is not debatable.

Mr. THURMAN. I object now. The objection is out of order. The only way he can reach this is to reconsider

the ruling of this Convention, and it takes a two-thirds vote to carry that.

Mr. HART. Mr. President, I wish to say that in view of the information received from the committee I desired on the matter, I am opposed now to referring it again to the committee.

Mr. KIMBALL (Weber). Will the chair rule on my point of order?

The PRESIDENT. I think the point of order is well taken if it is against the chair.

Mr. HART. Mr. President, that motion to commit is certainly debatable; it is an amendable motion and Mr. Roberts is against Mr. Kimball on this point. He says a motion to commit is debatable.

Mr. THURMAN. Of course it is.

Mr. HART. I just wish to say, Mr. President, that I have no question as to the qualification and ability of Mr. McGurkin, but not knowing at the time the members of this committee or what consideration had been given the question, the proposition in my mind was this, that if any other person could do the work to the satisfaction of this Convention and only charge one-third as much for the transcribing I was in favor of that person. I think it will be useless Mr. President, to refer this matter to this same committee; you will get no further report from them than we have now. I am in favor of adopting their report.

Mr. CANNON. Mr. President, I think that this matter was referred to a committee—

Mr. THURMAN. Mr. President, I believe that I am in order on this floor, I have waited for three speeches to be made since I was shut off by Mr. Kimball, and the question is whether I can proceed or not.

The PRESIDENT. We have a rule here if we can get our eye on it.

Mr. CANNON. I thought the gentleman was seated.

The PRESIDENT. Mr. Varian, can you turn to that rule?

Mr. VARIAN. The only rule about that is rule 24 I believe. It doesn't say whether it is debatable or not. It simply determines the precedence in which certain motions shall have place. It does not decide that question. It depends upon the general rule of parliamentary law.

Mr. PIERCE. Mr. President, we adopted Roberts' Rules of Order. On page 63, rule 22, it says that motions to recommit are debatable and also that it is permissible to debate the merits of the question it is proposed to commit.

The PRESIDENT. Then the ruling with regard to the debate going forward is correct.

Mr. THURMAN. Now, I will proceed with my peroration. [Laughter.]

I had reached that, however, and I desire to say this, Mr. President, in conclusion, that I don't want members of this Convention to vote against this report on the theory that it is too high, or that the committee have proceeded without proper deliberation. But don't refer it. If anything is done, I will recommend what to do, and that is, read the test by which the committee was governed, decide it for yourselves, upon the same theory that the committee decided it, and if you decide it against us, and you take the responsibility, all right. I will not be found fault with hereafter for having acted.

The PRESIDENT. The question before the house is on the adoption of the report of the committee. There is a substitute offered by Mr. Kiesel which is to recommit this matter to the committee.

Mr. HILL. Mr. President, I would like to know if this committee considered the question as to whether we needed a stenographic reporter or not at all.

The PRESIDENT. There is no question about that.

Mr. HILL. It seems to me if I can judge by what I have been listening to here for several days—

The PRESIDENT. I will say to the gentleman the Convention decided that they wanted one by vote here, if my memory serves me correctly.

[Calls for the question.]

Mr. CANNON. Mr. President, and gentlemen of the Convention, I think that when this matter was referred to the committee of five, that committee took the matter up without any bias whatever. I believe if there was a bias, it was against the gentleman who has been recommended by that committee. I believe that they have been conscientious in their examination of that which was presented to them, of the full matter, and I am satisfied that when they reported as they did report, that the whole Convention, had it had the whole matter before it, as this committee did, would have reported in the same manner. For this reason, I favor the original motion and shall vote against these substitutes.

Mr. KIESEL. Mr. President, in view of all that I have heard, I, with the consent of my second, withdraw my motion.

[Calls for the question.]

Mr. SQUIRES. Mr. President, I rather like the suggestion of Brother Thurman on that committee, that we should have the contest read to this Convention.

Mr. THURMAN. That is right.

Mr. MURDOCK (Beaver). Mr. President—

Mr. HART. I call for the previous question.

The PRESIDENT. All in favor of the adoption of the report of the committee will say aye.

The report was adopted.

Mr. VARIAN. Mr. President, I move that the reporter be sworn in.

Carried.

Frank E. McGurrin was then sworn in as official stenographer.

The PRESIDENT. Are there any other reports of committees?

Mr. STOVER. Mr. President, on Fri-

day last the following resolution was adopted:

That the committee on accounts and expenses report to the Convention the amount of expenses incurred per diem up to the present time and any other information they may give us on the general expenses of the Convention.

I now ask for the report of that committee.

The PRESIDENT. Is the committee ready to report?

Mr. LUND. Mr. President, as mileage was mentioned as a part to be reported upon, and we could not ascertain until to-day the number of miles that each had come, we were unable to report, but we will report to-morrow.

Mr. LEWIS. Mr. President, I would suggest that the reporter in being sworn, take the same oath we have all taken as members. It seems to me he should be sworn for a correct report of the proceedings of this Convention.

Mr. VARIAN. Mr. President, ordinarily the reporter takes an oath to correctly take down the evidence and arguments and correctly transcribe the same from shorthand into longhand, but I notice the reading of this oath is that he will correctly perform his duties as an officer of this Convention.

The rules adopted for two days include a rule specifying what his duties shall be. I should suppose that that would be sufficient.

The PRESIDENT. Is that satisfactory to you, Mr. Lewis?

Mr. LEWIS. Yes, sir.

The PRESIDENT. The introduction of ordinance and propositions for insertion in the Constitution is now in order.

Mr. EVANS (Weber). Mr. President, I desire to introduce a proposition for insertion in the Constitution and ask that it be read at length and read a second time by its title and referred to the committee on elections and suffrage.

The same was read by the secretary as follows:

Whereas, both political parties in this

Territory have declared in favor of woman suffrage; now, therefore, be it

Resolved, that the rights of citizens of the State of Utah to vote and hold office shall not be denied or abridged on any account of sex. Both male and female citizens of this State shall equally enjoy all civil, political, and religious rights and privileges.

Mr. THURMAN. We settled that long ago in the committee.

Said proposition was read a second time by its title.

The PRESIDENT. If there is no objection this will go to the proper committee under the rules.

Mr. EICHNOR. Mr. President, in accordance with Mr. Evans' resolution, I offer a proposition for a method of voting otherwise than by ballot.

Same was read by the secretary as follows:

A proposition to provide for method of voting otherwise than by ballot.

The delegates of the Constitutional Convention of the Territory of Utah, in Convention assembled, do propose as follows:

Section 1. All elections shall be by ballot. Nothing in this section shall be construed to prevent the use of any machine or mechanical contrivance for the purpose of receiving and registering the votes cast at any election; provided, that secrecy in voting be preserved.

Mr. VARIAN. The standing rule is to read it a second time by its title and refer it as a matter of course without a motion.

The proposition was then read a second time by its title.

The PRESIDENT. It will go to the committee on elections and suffrage.

Mr. EVANS (Weber). Mr. President, I desire to offer for insertion in the Constitution a matter relating to the elective franchise and ask that the resolution be read at once at length and a second time by its title, and under rule referred to the committee on elections and suffrage.

The secretary then read the same as follows:

Resolved, that in order to preserve the

purity of the ballot and to prevent the exercise of improper influences at elections, the following be inserted in the Constitution, namely:

No person who shall receive, accept or offer to accept, or pay, offer or promise to pay, contribute, or promise to contribute to another to be paid or used, any money or other valuable things as compensation or reward, for the giving or withholding any such vote or who shall make or become directly or indirectly interested in any bet or wager, depending upon the result of any election, shall vote at such election, and upon challenge for such cause the person so challenged before the officer authorized for that purpose, shall receive his vote, shall swear or affirm before such officer that he has not received or offered, or promised to pay, contribute, offered or promised to contribute to another to be paid or used any money or other valuable things as a compensation or reward for the giving or withholding of vote at such election and has not made any promise to influence the giving or withholding of any such vote nor made or become directly or indirectly interested in any bet or wager depending upon the result of such election.

The Legislature shall enact laws making a violation of any provisions of this section a crime and provide the punishment therefor, and the Legislature shall also enact laws excluding from the right of suffrage all persons convicted under the provisions of this section and also persons convicted of bribery or of any infamous crime.

The proposition was read a second time by its title and referred to the committee on elections and suffrage.

Mr. Eichnor offered for insertion in the Constitution an article on preamble and bill of rights.

Mr. THURMAN. How many sections are there, Mr. Secretary?

The SECRETARY. There are thirty-five in all.

Mr. THURMAN. I move we suspend the rules and refer that without further reading to the committee.

Seconded.

Mr. CREER. Mr. President, I would like to ask if it is stated there what that is copied from—that bill of rights?

Mr. EICHNOR. If any person desires a bill of particulars on the declaration of rights, I will furnish it. I will state that I consulted forty-four constitu-

tions, in preparing that declaration of rights.

The PRESIDENT. Gentlemen, the question is on the motion to suspend the rules and refer this without reading.

Carried.

The PRESIDENT. It will go to the committee on preamble and declaration of rights.

The SECRETARY. There is a proposition offered by T. B. Lewis.

Mr. RICKS. I move that we suspend the rules and that this be referred to the proper committee.

Seconded.

Carried.

Mr. PETERS. Mr. President, I wish to offer a proposition on rights and I ask that the rules be suspended and that it go to the proper committee.

Carried.

Mr. Evans (Weber) offered a proposition for insertion in the Constitution relative to free passage.

Mr. VARIAN. It is not debatable.

The PRESIDENT. Is it not debatable? The question is on the motion to refer it to the committee named.

Carried.

The SECRETARY. Here is an article from Mr. Maloney of Weber.

The PRESIDENT. What will we do with it?

Mr. VARIAN. Mr. President, I ask leave to make a motion out of order in relation to the consideration of the rules. We omit that, do I have leave?

The PRESIDENT. Yes, sir.

Mr. VARIAN. Mr. President, I move that the consideration of the report of the committee on rules be made a special order for day after to-morrow at half past two o'clock.

Carried.

Mr. LEWIS. Mr. President, I move that the rules be suspended and that the document submitted by Mr. Maloney shall go to the proper committee.

Carried.

The PRESIDENT. It will be referred

to the committee on corporations other than municipal.

Any other documents?

The SECRETARY. Mr. Snow of Washington County in relation to salaries and fees.

Mr. THATCHER. Is it short?

The PRESIDENT. Read it.

The secretary read as follows:

Resolved, that no officer of the State, whether elective or appointive, executive, or judicial, of any county, city or town, shall receive for his own use for the performance of any official duties any fees, costs, perquisites, or compensation, other than his salary, and prescribed by law, and all fees payable by law for any official service shall be paid when received by such officers into the state, county, city or town treasury, respectively.

Said proposition was read a second time by its title.

The PRESIDENT. This goes to the proper committee.

Mr. EVANS (Weber). Mr. President, it goes to the committee by the rule without any order.

Mr. EICHNOR. Mr. President, I offer a proposition to enable cities to form their own charters. I would suggest that some gentleman make a motion to have the rule suspended and to have it referred without reading.

Mr. EVANS (Weber). Make the motion yourself.

Mr. EICHNOR. I move that the rules be suspended and that the proposition be read by title and referred to the committee on municipal corporations.

Carried.

Mr. EICHNOR. Mr. President, I would suggest to the secretary to mark on that Washington and California. It is taken from both.

Said proposition was read a first and second time by its title.

The PRESIDENT. Any other propositions that should go into the Constitution?

[No response.]

The PRESIDENT. Unfinished business is in order.

Mr. THURMAN. Mr. President, I desire before we adjourn, if there are any announcements to be made by chairmen of committees, that they be made before we adjourn, and while we are all together. We don't know how to get together after we adjourn. There have been unsuccessful attempts made by several committees to get together and they cannot do it.

Mr. MURDOCK (Beaver). Do you make that as a motion?

Mr. THURMAN. Yes, sir.

Mr. MURDOCK (Beaver). I second the motion.

Mr. THURMAN. I move that if the chairmen wish to call their committees together to-morrow that they make announcements before we adjourn this afternoon of the time and place the committee will meet.

Carried.

Mr. JAMES. Mr. President, before we proceed to anything further, I wish to make an inquiry.

The PRESIDENT. We haven't got through with the order of business.

Mr. BOWDLE. Mr. President, if I am in order, I wish to offer a resolution with reference to printing.

The secretary then read as follows:

Resolved, that there be printed in pamphlet form 600 copies of the Enabling Act, names of the officers and members of standing committees—

Mr. EVANS (Weber). I arise to a point of order. We are now upon the order of business of introducing propositions, as I understand it.

The PRESIDENT. The point of order is well taken.

Is there any unfinished business?

Special orders are next.

Mr. JAMES. Mr. President, I don't know whether I am in order or not, but I arise for information. I want to know if we are going to have any committee clerks, and if we are going to have them, when we are going to have them? If there is any time in the world when the committee should have their

clerks it is right now. My committee needs a clerk at once; we should have had it to-day; we could have kept a clerk at work all day.

Mr. EVANS (Weber). Mr. President, I dislike it very much, but I arise to a point of order and I insist that the chair be permitted to go through the order as the rules require.

The PRESIDENT. Motions and resolutions.

Mr. Bowdle's resolution is in order.

The secretary then read the following:

Resolved, that there be printed in pamphlet form 600 copies of the Enabling Act, names of members, and members of standing committees, and rules and order of business, for the use of the members of this Convention.

R. G. LAMBERT,
Salt Lake.

Mr. WELLS. Mr. President, I think something of this kind is incorporated in the rules. This resolution provides for the printing of the rules before they are adopted. I move that it be laid on the table.

Carried.

Mr. STREVELL. Mr. President, in view of the fact that we have already adopted the Constitution of the United States it seems to me that it would be appropriate if we had the United States flag draped in this hall, and I make a motion that the sergeant-at-arms—

Mr. EVANS (Weber). Mr. President, I am compelled to arise again to a point of order. We must proceed under the rules.

The PRESIDENT. Motions and resolutions are now in order.

Mr. EVANS (Weber). I beg pardon of the gentleman.

Mr. STREVELL. Mr. President. I make a motion that the sergeant-at-arms be instructed to procure proper United States flags and drape this hall with them.

Carried.

Mr. JAMES. Mr. President, if I am permitted, I move you now that we take up the question of committee clerks.

Seconded.

The PRESIDENT. All in favor of the motion of Mr. James that we proceed to the consideration of committee clerks will say aye. Those opposed will say no.

The noes seem to have it.

The noes have it.

Mr. JAMES. Division.

Mr. THATCHER. Too late. The chair has ruled.

The PRESIDENT. The chair has announced its decision.

Mr. Lambert offered the following resolution, which was read by the secretary:

Resolved, that the printing committee be authorized to obtain 5000 letter heads, 5000 6½ envelopes, 1000 No. 10 envelopes, 2000 committee report headings, on legal cap paper, for the use of the members of the Convention.

The motion to adopt the resolution was lost.

Mr. ELDREDGE. Mr. President, I move that we now adjourn.

Seconded.

The PRESIDENT. With the consent of the gentleman who moved to adjourn, there will be a resolution here—a brief one—I think it ought to be read.

Mr. Ricks offered the following resolution which was read by the secretary:

Resolved, that the thanks of this Convention be extended to G. W. Heintz of the general passenger department of the Rio Grande Western Railway for the 500 maps of Utah furnished for the use of this Convention.

On motion the resolution was adopted.

Mr. ELDREDGE. I will now renew my motion to adjourn.

Carried.

The Convention then, at 5:15 p. m., adjourned.

NINTH DAY.

TUESDAY, March 12, 1895.

The Convention was called to order at 2 o'clock p. m. by President Smith.

The roll was called and the members found in attendance as follows:

Adams	Lemmon
Allen	Lewis
Anderson	Low, William
Barnes	Low, Peter
Bowdle	Low, Cache
Boyer	Lund
Brandley	Maeser
Button	Mackintosh
Buys	Maloney
Call	Maughan
Cannon	McFarland
Chidester	Miller
Christianson	Morris
Clark	Moritz
Coray	Murdock, Beaver
Corfman	Murdock, Wasatch
Crane	Murdock, Summit
Creer	Nebeker
Cunningham	Page
Cushing	Partridge
Driver	Peters
Eichnor	Peterson, Grand
Eldredge	Peterson, Sanpete
Emery	Pierce
Engberg	Preston
Evans, Weber	Raleigh
Evans, Utah	Richards
Farr	Ricks
Francis	Roberts
Gibbs	Robertson
Goodwin	Robinson, Kane
Green	Robison, Wayne
Hammond	Ryan
Hart	Sharp
Haynes	Shurtliff
Halliday	Snow
Heyborne	Spencer
Hill	Squires
Howard	Stover
Hughes	Strevell
Hyde	Symons
Ivins	Thatcher
James	Thompson

Johnson	Thoreson
Kiesel	Thorne
Keith	Thurman
Kearns	Van Horne
Kerr	Varian
Kimball, Salt Lake	Warrum
Kimball, Weber	Wells
Lambert	Whitney
Larsen, L.	* Williams.
Larsen, C. P.	

Prayer was offered by Rev. Clarence T. Brown of the Congregational Church.

The secretary read the journal of the eighth day's session, which was corrected and approved.

Mr. CANNON. Mr. President, I move the name of the church of which the reverend gentleman offering prayer is a member be inserted after his name, and I would like to request that this be done in each case since the opening of the Convention. I find by reference to our minutes of the first day, the name of the gentleman who offered prayer and also the church with which he is associated was given, and I think this should be done in each case, the object of the mover of the motion having been to show to the public that a freedom of religious sentiment prevailed in the Convention.

Carried.

Mr. EVANS (Weber). Mr. President, there is one question that has been raised here that I think is proper to consider about these minutes and that is the number of days.

The minutes as we have them in our hand, say the sixth day.

We are of opinion, some of us, that the days should be numbered, Sundays included, from the day we began; that is the way it is in legislative sessions, and I think it is intended to be the same in this Convention.

We are actually entitled to more compensation than the minutes show that we are in fact, we are entitled to our compensation for Sundays and every day from the beginning of the session.

Now, we were in session all last week, I believe, commencing with Monday. This is the ninth day and yet the journal seems to show that it was the sixth day.

Mr. ANDERSON. It should be eighth.

Mr. EVANS (Weber). Mr. President, I move that it be corrected to the eighth day.

Mr. BARNES. It should be the ninth day.

Mr. EVANS (Weber). These are yesterday's minutes.

Mr. BARNES. Yesterday should be the eighth day.

Mr. KIMBALL (Weber). Mr. President, in order to relieve the gentleman's mind, I move now that we only count secular days. I think that will relieve that gentleman's mind.

The PRESIDENT. The chair would like further light upon this matter.

Mr. EVANS (Weber). Mr. President, as I understand, we have the right as members of this Convention to claim our per diem for every day we are here after the beginning of this Convention. Members have to stay here on Sundays, some of them who live out a long distance at least, and they are entitled to their compensation. The law allows it to us and I see no reason why we should not have it.

Mr. JAMES. Mr. President, to expedite this matter, I move that the suggestion of Mr. Evans be referred to the committee on accounts and expenses and that they report to this Convention.

Mr. EVANS (Weber). Mr. President, I move that the journal be corrected so as to make it read the eighth day. I think the motion is out of order.

Mr. JAMES. Mr. President, I move to amend and to refer the matter to committee on accounts and expenses.

Mr. ROBERTS. Mr. President, is the question open for remarks?

The PRESIDENT. The question is on the motion of Mr. Evans. The question is open for remarks.

Mr. ROBERTS. Mr. President, I hope that motion will not carry. While I am quite willing that members should be paid for every day that they are here in attendance upon this Convention, whether the Convention meets or not, still I wouldn't be in favor of numbering the days of our session otherwise than by the actual number of days that the Convention is in session, because I apprehend it would be misleading to call it the eighth day, when there is nothing to show that we are in session on the seventh day, and while I would be willing to have the members have their compensation, I wouldn't like to see the proceedings of the days numbered other than by the days we were actually in session.

Mr. PIERCE. Mr. President, I am in favor of Mr. Evans' motion. As far as my experience and knowledge goes, in all legislative bodies—for instance, take in a state where they say the legislature shall continue for ninety days, they include the first day they sit and every day after that, holidays and everything, it is limited by the time the sun rises and the sun sets, and this is simply not for the purpose of determining the compensations, but for the purpose of determining the number of days we are in session, or the number of days of the session, and I think it eminently proper that Mr. Evans' motion should pass.

Mr. SQUIRES. Mr. President, do I understand Mr. Evans to desire to amend the minutes relating to the eighth day only, or to other days?

Mr. EVANS (Weber). The other days are all right. We adjourned over Saturday.

Mr. HILL. Mr. President, I believe it is usual in all legislative bodies to count from the day we begin until the close—each and every day consecutively.

Mr. EVANS (Weber). Mr. President, I desire to make this further remark, as I am the mover of the motion, that

if Brother Roberts' suggestion be adopted, we would have difficulty about getting our compensation. Our records will show one thing and our claims for compensation will show another, and as the gentleman from Salt Lake has properly remarked, we commenced on a certain day and continue until we close, and we count from the day after we are in session.

The other journals of constitutional conventions are counted this way, and all legislative bodies do it. It seems to me that we ought not to depart from the rule in this case.

Mr. JAMES. Mr. President, I still insist upon the motion being referred to the committee on accounts and expenses. I do not see why a matter that is so important as this should be settled without an opportunity for investigation. This Convention will cost between six and seven hundred dollars—

The PRESIDENT. Is there any second to the gentleman's motion?

Mr. JAMES.—for every day that we are in session and unless we take care of this six or seven hundred dollars for the days we are not in session I am of the opinion that we will create a great deal more expense than we did when we hired the stenographer yesterday and took up an hour and a half of time.

The PRESIDENT. There is no second.

Mr. CREER. Mr. President, unless we have a committee to change the universal rule, I would be opposed to this motion. I think there is no such committee.

The PRESIDENT. The motion before the house is that of Mr. Evans, that the records be changed from the sixth to the eighth day.

Mr. VARIAN. Mr. President, I understood the motion to commit was made.

The PRESIDENT. There was no second to it.

Mr. VARIAN. Well, I renew it; I

make the motion to commit to the committee on accounts and expenses.

Mr. JAMES. Yes, sir; on accounts and expenses, I second it.

Mr. HILL. Mr. President, I cannot see what business that committee has with this question that is before the house. It is the keeping of the records straight. Yesterday was the eighth day since we commenced.

Mr. THURMAN. That is right; it has nothing to do with the money.

The PRESIDENT. The question now turns on reference to this committee.

Mr. VARIAN. Mr. President, I made the motion because I thought perhaps you might be under some misapprehension concerning it and it might be improperly decided.

The PRESIDENT. I think there can be no misapprehension from the fact that has been the rule in the Convention as far as the chair can remember.

Mr. VARIAN. From the remarks of members I thought there might be some misapprehension among ourselves. I didn't speak of the chair.

Mr. FARR. Mr. President, I hope that the motion will prevail, I have spent considerable time—

Mr. VARIAN. I yield to Mr. Farr.

Mr. FARR—and I move that we sustain it.

Mr. VARIAN. Mr. President, I am quite clear on it myself. From the remarks of some of the gentlemen I thought it might be decided hastily and without thought. There is nothing to prevent it being considered by the Convention, instead of by the committee.

Mr. THURMAN. Mr. President, I would like to ask the gentleman from Salt Lake what he understands the rule to be.

Mr. VARIAN. I understand the rule to be as stated by Mr. Evans and Mr. Pierce.

The PRESIDENT. The question is on the amendment to refer the matter to the committee on accounts and expenses.

Lost.

The PRESIDENT. The question recurs upon the motion of Mr. Evans. Carried.

Mr. KIMBALL (Weber.) Mr. President, there is some question about the rule of printing here, I don't remember what the rules are, but I now move you that whenever any proposition comes before the house and is referred to the committee that it be referred to the committee on printing so that the members can have each morning the propositions that are submitted to the Convention before them in the minutes, so I move you that after a proposition is introduced and read the first and second times by the title, that it goes to the committee on printing.

The PRESIDENT. The gentleman is out of order. The order of business now calls for presentation of petitions and memorials.

Mr. KIMBALL (Weber). Under the ruling of the chair, I would like to know when I would be in order.

The PRESIDENT. Well, under motions and resolutions.

Mr. KIMBALL (Weber). I think, if the chair will pardon me, I am in order right now, whenever anything is introduced here that it go to the committee on printing. I don't think that is out of order.

Mr. STREVELL. Mr. President, if it is in order, I would like to ask the privilege of the floor for two members of the Idaho legislature, who are with us to-day, Mr. Crane and Mr. McCarthy.

The privilege was granted by a unanimous vote.

REPORTS OF STANDING COMMITTEES.

Mr. Low of Cache presented the following report which was read by the secretary:

Constitutional Convention,
Committee Room No. 10.

Salt Lake City, Utah, March 12, 1895.

MR. PRESIDENT:

Your committee No. 10 beg leave to report an apparent conflict in the

resolution for standing committees, and your appointment of the same.

The report of the special committee recommended that the Convention have certain standing committees and designated the 10th as public buildings and state institutions noted educational. While your report appointed eleven members as the committee on public buildings and state institutions; and that our duties might be properly prescribed, we refer the question to you for adjustment.

[Signed] ELIAS MORRIS,
Chairman.

Mr. VARIAN. Mr. President, I desire to call attention to the fact that that communication is not in order for presentation to the Convention. There is no such a thing as a committee by number, and if that is to go on the journal, I think it ought to be reformed.

The committee ought to state what committee it is. It won't do to say committee number 10 or 12, it carries no significance or knowledge with it when you look at the journal. I make the suggestion that the chairman of the committee reform that report. Let it go on your printed journals and it will be a singular thing that will appear there in that way.

Mr. LOW (Cache). Mr. President, I desire to withdraw it in order to make that correction.

The PRESIDENT. Leave will be granted if there is no objection to the gentleman to withdraw it. Any other reports of committees?

The committee on printing reports as follows:

Constitutional Convention Hall,
March 12th, 1895.

MR. PRESIDENT:

Your committee No. 19 on printing beg leave to report that we have requested and received sealed bids from the publishing houses of Salt Lake City on the printing of 600 pamphlets containing the Enabling Act, names of the members, and of standing committees, and the rules of the Convention, and the Salt Lake Lithographing Company being the lowest bidder, your committee recommend that the printing of said pamphlets be awarded to said company at the rate of \$2.16 per page.

Respectfully submitted,

R. G. LAMBERT,
Chairman.

Mr. VARIAN. What is the heading of that report?

The SECRETARY. Committee No. 19.

Mr. VARIAN. That is subject to the same objection,

The SECRETARY. On printing.

Mr. VARIAN. If there is no objection, I suggest to the chairman of that committee that the clerk be permitted to strike out the number.

Mr. HART. Mr. President, I would suggest that the numbers of the committees should be inserted with the names of the committee; that it would be convenient for reference to standing committees. It was a rule that was adopted in a number of conventions. I notice Wyoming adopted that provision and they referred to the number of committee as well as its name.

The PRESIDENT. What will you do with the report of the committee?

Mr. PIERCE. Mr. President, I move you that we adopt the report of the committee.

Seconded.

Mr. HILL. Mr. President, I can see no possible need of making No. 19, No. 10, No. 12, and so on there—I think the name of the committee is all that is sufficient. There is only one committee of that character, and that 19 should be stricken out.

The PRESIDENT. You have heard the motion, gentlemen, any remarks?

Mr. RICHARDS. Mr. President, I offer an amendment to the motion, that the words, "Number nineteen" be stricken out—that the report be so amended.

Seconded.

Mr. PIERCE. I understand that the chairman of the committee had consented to that change; is that so, Mr. Lambert?

Mr. LAMBERT. Yes.

Mr. PIERCE. Let the clerk strike it out, then.

Mr. RICHARDS. Then I will withdraw my motion.

Question on the adoption of the report.

The motion to adopt the report was carried.

Mr. LOW (Cache). This report is now corrected as suggested, and is respectfully submitted.

The PRESIDENT. What will you do, gentlemen, with the report of the committee on public buildings and state institutions?

Mr. SQUIRES. Mr. President, I move that the title of that committee be made to conform to the original report of the committee that reported to us standing committees for the Convention.

Seconded.

Mr. VARIAN. Mr. President, I would like to inquire whether there has been a change in the name?

Mr. LOW (Cache). Mr. President, there has been, apparently, the word, "not educational" left out in the title of the committee.

Mr. VARIAN. I call the attention of the chair to the fact that we are operating under rules now which declare the titles of committees.

Mr. LOW (Cache). Mr. President, the original report of the committee on committees specified that committee number ten should be composed of eleven members and should be "public buildings and state institutions not educational."

Mr. PIERCE. We have adopted these rules for two days—that is, they will be in force until to-morrow. We have made it a special order upon these rules to-morrow at half-past two. I, therefore, now move you that the report of this committee be made a special order to-morrow at three o'clock, then in debating the rules we can harmonize these little differences.

Seconded.

Mr. VARIAN. Mr. President, we have a special order under which this general subject is to be considered for half-past two; why not let it come up under the

consideration of the report of the rules committee.

Mr. PIERCE. I consent to change motion to half past two.

Mr. RICHARDS. Mr. President, I move as an amendment of that motion, that the further consideration of this matter be deferred until the adoption of the rules or the consideration of the rules.

Carried.

Mr. EVANS (Weber). I suggest, Mr. President, that only the amendments have been put. The question now recurs on the original motion.

Mr. PIERCE. I think that settles the point. We only want to get it out of the way. That is all.

The PRESIDENT. Gentlemen, the matter recurs on the original motion as amended.

Carried.

The committee on accounts and expenses reported as follows:

Convention Hall, March 12, 1895.

Mr. President and gentlemen of the Convention:

We, your committee on accounts and expenditures, respectfully report as follows:

1. Mileage of members as per schedule herewith submitted, 8607 miles at 20 cents..... \$1,721.40
2. Per diem of president and members of the Convention... 430.00
3. Officers' salaries, per day—

Secretary, P. T. Christensen	\$6.00	
Assistant secretary, C. S. Rapp.....	5.00	
Sergeant-at-arms, R. Clawson	5.00	
Watchman, Bruce Johnson.....	4.00	
Janitor, J. N. Scott	4.00	
Messenger, L. C. Camp...	4.00	
Messenger, J. H. Thorne	4.00	
Enrolling and Engrossing clerk, J. A. Smith	5.00	
Chief messenger, T. S. Watson	4.00	
Official stenographer.....	30.00	71.00

The total, \$501.00 per day, does not include printing, stationery, nor other incidental expenses.

Expenses including the 5th day, Friday, March 8th, 1895—

Mileage.....	\$1,721.40
Officers' salaries from and including day when sworn, except stenographer, whose service commenced with first day.....	273.00
Per diem of members	2,120.00
Total.....	\$4,144.40

A. C. LUND,
Chairman.

Mr. JAMES. Mr. President, I move that the report be received and filed.

Seconded.

Mr. SQUIRES. Mr. President, I desire a little information on this report, as to when the salaries of these clerks that are not fixed by law were fixed by this Convention. I don't remember that the salaries of these other clerks and employes have ever been fixed. I refer of course, only to those that are not fixed by law.

Mr. JAMES. That is the reason, Mr. President, I move that the report be received and filed, so that if there should be anything in the report that is not regular it can afterwards be amended.

Carried.

Mr. HILL. Mr. President, I arise for information as to whose business it is to fix these salaries of these officers. I am not informed on the subject.

The PRESIDENT. It will be the business of the house, I suppose, when they come up in order.

Mr. HILL. Because this question will come up by those who are officers later on, and it seems to me they ought to have some understanding as to how much they are getting per diem.

Introduction of ordinances and propositions for insertion in the Constitution:

Mr. PIERCE. Mr. President, I move you that the rules be suspended and that all propositions introduced to-day be read the first time by their title unless otherwise called for.

Seconded.

Mr. ROBERTS. Mr. President, I move as an amendment to that motion that they be read by their titles and re-

ferred to the appropriate committees, without being read at length.

Mr. PIERCE. My motion is to suspend the rules and that they be read the first time by their title. That is the only rule that I want suspended.

Mr. ROBERTS. Mr. President, I would move as an amendment, that on being read by their titles they then be referred to the appropriate committee under the suspension of the rules.

Seconded.

Mr. PIERCE. Mr. President, I am opposed to that amendment.

Mr. ROBERTS. Mr. President, I take it that the principal thing in introducing resolutions and propositions and ordinances to be inserted in the Constitution, is not to take up the time of this Convention, in wading through what may be offered here, but to get the matter sent to the proper committees and I think that we can determine that upon the title being read and do this business in short order. It is in the interest of economy of time, Mr. President, that I make my suggestion.

Mr. PIERCE. Mr. President, my purpose is exactly what the gentleman from Davis County desires. Our rules require a bill to be read three times before it is put upon its passage, and the rule as it is at the present time requires it to be read the first time at length; the second time by its title and the third time at length. So that we accomplish just what we need, and save time when we suspend the rule that requires us to read it the first time at length.

The PRESIDENT. Mr. Pierce has made a motion to suspend the rules and that they be read by their titles.

Mr. Roberts moves to amend that by providing that we suspend the rules and that they be referred to the appropriate committees, upon the reading by their titles.

Lost.

The PRESIDENT. It recurs upon Mr. Pierce's motion

Carried.

Mr. SQUIRES. Mr. President, I understand that motion to be except when otherwise called for.

Mr. Chidester introduced a proposition for insertion in the Constitution (file No. 11), relative to counties and county seats, which was read a first time by its title.

Mr. THURMAN. Mr. President, I desire to know now what becomes of that document.

Mr. PIERCE. Mr. President, it is now read under the rule a second time by its title and referred to the appropriate committee.

Mr. THURMAN. Mr. President, I move we suspend the rule which requires it to be read a second time, and that it be referred to the committee without. What is the use of reading that the second time by its title is a mystery to me.

Mr. EVANS (Weber). Mr. President, I arise to a point of order on that motion. That is the very motion that has been passed upon and voted down.

The PRESIDENT. To what committee is it designed this should go?

Mr. CHIDESTER. Municipal corporations.

The PRESIDENT. It will go to the committee on municipal corporations.

Mr. Anderson introduced a proposition for insertion in the Constitution (file No. 12) relative to the declaration of rights, which was read a first and second time by its title, and referred to the committee on preamble and declaration of rights.

Mr. EICHNOR. Mr. President, I offer a proposition to provide for pardoning power. (File No. 13.)

The PRESIDENT. What will you do with the resolution?

Mr. EICHNOR. I suggest that it be referred to the executive committee.

The PRESIDENT. It will go to the executive committee without there is objection.

Mr. THURMAN. Mr. President, let us keep our records straight in this

matter even if it isn't a very good one, but as the rules now stand these documents are to be read a first and second time by their titles. This is the condition of it. I think it is unnecessary to read it twice by its title before referring it to the committee, but that is what this house voted to do, and now let us either do it or undo what we have done.

Said proposition was read a first and second time by its title and referred to the executive committee.

Mr. Maloney introduced a proposition for insertion in the Constitution (file No. 14) relating to homesteads and exemptions, which was read a first and second time by its title and referred to the legislative committee.

Mr. Peters introduced a proposition for insertion in the Constitution (file No. 15) relative to labor and arbitration, which was read a first and second time by its title and referred to committee on labor and arbitration.

Mr. Maloney introduced a proposition (file No. 16) relating to insurance companies, which was read a first and second time by its title and referred to committee on corporations other than municipal.

Mr. Page introduced a proposition for insertion in the Constitution (file No. 17) relative to protecting the purity of elections.

Mr. SQUIRES. Mr. President, I call for the reading of it.

Mr. GOODWIN. Mr. President, if it is in order, I move that that be referred to the Utah commission.

Mr. SQUIRES. I call for the reading of that; I want to know what Sanpete has to say on the purity of elections.

The secretary then read said proposition as follows:

Section 1. Any person who shall be guilty of bribery, fraud, or wilful violation of any election laws, or who shall corruptly alter, erase, add to, or in any way change, corruptly, any election returns, shall be forever disqualified from holding any office of trust or profit in this State, and in addition to any penal-

ties provided by law, shall be permanently deprived of the right of suffrage.

Said proposition was read by its title and referred to the committee on elections and right of suffrage.

Mr. Thoreson introduced a proposition for insertion in the Constitution (file No. 18) relative to public corporations, which was read a first time and second time by its title and referred to committee on municipal corporations.

Mr. Hart introduced a proposition for insertion in the Constitution (file No. 19) relative to distribution of powers in legislative departments, which was read a first and second time by its title and referred to the legislative committee.

Mr. Strevell introduced a proposition for insertion in the Constitution (file No. 20) regarding the adjustment of difficulties between labor and capital, which was read a first and second time by its title and referred to the committee on labor and arbitration.

Mr. MALONEY. I would like to have that read.

The secretary read as follows:

In order to facilitate the adjustment of such difficulties as may in future arise between labor and capital in this State, it is hereby made the duty of the first legislative assembly to provide by law for the appointment by the governor, of a board to be known as the board of labor and arbitration,

Such board shall consist of three reputable citizens of this State, not more than two of whom shall be of one political party, and shall be so constituted as to fairly represent the interests of both labor and capital. The duties of such board shall be such as the Legislature may prescribe by law, having at all times in view the object of properly adjusting such difficulties as may arise between labor and capital to the end that labor shall not on the one hand be unjustly opposed, and on the other that capital shall be protected in all lawful enterprises in this State.

The terms of office and compensation of such board shall be such as the Legislature may prescribe, conditioned that the term of office of not more than one of its members shall terminate in any one year.

Mr. Low (Cache) introduced a proposition, for insertion in the Constitution (file No. 21) relative to the executive department, which was read a first and second time by its title and referred to the executive committee.

Mr. Gibbs introduced a proposition for insertion in the Constitution (file No. 22) relative to the duties of probate judges, which, on request of Mr. Pierce, was read by the secretary as follows:

The probate courts shall be courts of record and shall have original jurisdiction in all matters of probate and settlement of estates of deceased persons, and appointment of guardians; also jurisdiction to hear and determine all civil cases wherein the death or damage claim does not exceed the sum of five hundred dollars exclusive of interest and concurrent with justice of the peace in criminal cases.

Said proposition was read a second time by its title and referred to the committee on judiciary.

Mr. Chidester introduced a proposition for insertion in the Constitution (file No. 23) relative to amending and revising the Constitution, which was read a first and second time by its title and referred to the committee on schedule and future amendments and miscellaneous.

Mr. Creer introduced a proposition for insertion in the Constitution (file No. 24) relative to public buildings, which was read a first and second time by its title and referred to the committee on public buildings and state institutions.

Mr. Evans (Weber) introduced a proposition for insertion in the Constitution (file No. 25) relative to preventing blacklisting, which was read a first and second time by its title and referred to the committee on corporations other than municipal.

Mr. Evans (Weber) introduced a proposition for insertion in the Constitution (file No. 26) relative to taxation for public purposes, which was read a first and second time by its title and

referred to the committee on revenue, taxation and public debt.

Mr. Evans (Weber) introduced a proposition for insertion in the Constitution, relative to the apportionment of public moneys, which was read by the secretary as follows:

Resolved, that the following be made a part of the Constitution, to-wit:

No appropriation shall be made for charitable, industrial, educational or benevolent purposes to any person, corporation, or community, not under the absolute control of the State, nor to any denominational, or sectarian institution or association.

Said proposition was read a second time by its title and referred to the legislative committee.

Mr. Maloney introduced a proposition for insertion in the Constitution (file No. 28) relative to benefits of the infirm, sick, dependent poor, which was read a first and second time by its title and referred to the legislative committee.

Mr. Kerr introduced a proposition for insertion in the Constitution (file No. 29) on education, and asked that it be read at length.

Mr. EVANS (Utah). Mr. President, I move that the rules be suspended and that that be referred to the proper committee.

Seconded.

Mr. THURMAN. Move that they all be referred, while you are on your feet.

The motion of Mr. Evans, of Utah County, was carried.

Said proposition was read first and second time by its title and referred to the committee on education.

Mr. Eichnor introduced a proposition for insertion in the Constitution (file No. 30), relative to impeachment, which was read a first and second time by its title and referred to the committee on executive.

Mr. Eichnor introduced a proposition for insertion in the Constitution (file No. 31), relative to providing for the the executive department, which was

read a first and second time by its title and referred to the executive committee.

Mr. Eichnor introduced a proposition for insertion in the Constitution (file No. 32), to provide for distribution of powers, which was read first and second time by its title and referred to the committee on legislative.

Mr. Kearns introduced a proposition for insertion in the Constitution (file No. 33), relative to judiciary, which was read a first and second time by its title and referred to the committee on judiciary.

Mr. VARIAN. Mr. President, there is nothing before the house, I believe; pardon me for making the suggestion, it was called forth by the reading of some of the propositions that have been introduced. I notice that some of them are in the shape of resolution in very general language, not at all as they would likely be put into the Constitution, and I want to call attention to the fact that gentlemen introducing propositions in that way are imposing a great deal of labor on the different committees. If the proposition is considered at all, it will have to be revised and put in different language, and there is a great likelihood of many of them for those reasons being overlooked and not reported. I would suggest that every proposition for insertion in the Constitution be put in just the same shape and language that the mover desires, not by way of resolution, but by article and section.

Mr. Strevell introduced a proposition for insertion in the Constitution (file No. 35), regarding the right to recover damages for injuries resulting in death, which was read a first and second time by its title and referred to the committee on preamble and declaration of rights.

Mr. Thoreson introduced a proposition for insertion in the Constitution (file No. 36), relative to rights of suffrage, elections and qualifications, and oaths of office, which was read a first and

second time by its title and referred to the committee on elections and rights of suffrage.

Mr. CANNON. Mr. President, I would like to ask for information, if advantage accrues to the Convention by the introduction of measures by gentlemen who are upon the committee to whom the measure is referred? It strikes me we are taking up the time of the Convention. I have noticed a great many of the propositions introduced to-day by members who are on the committee to whom the proposition is referred.

I do not understand what advantage that is to the Convention or to those engaged in trying to frame the proposition. I do not understand the object of it, unless it is to make a record of an introducer of a great many resolutions and propositions here in this Convention. If that is the object, certainly some of our members are achieving the distinction desired. If there is any advantage to the Convention, and to those engaged in the work, I would like to have it explained.

Mr. EVANS (Weber). Mr. President—

Mr. VARIAN. Mr. President, I am aware that a great portion of these resolutions and bills and papers that have been handed in this afternoon is something that belongs to the legislative department. It is all proper enough to have them read and referred to the appropriate committees, but those committees will see they are most provided for in our legislative departments. If there is anything that is not provided for, they can simply refer to that and qualify the Legislature to provide laws for that. That is all there is of it. While if we were to go to work and make laws and take in all these bills that are read to-day here, it would take a volume of four or five hundred pages; but we don't expect that. We expect the committees will take these things into consideration and if they are not embodied in the Constitution they are simply referred

to them, and confer the authority on the Legislature to look after that business.

Mr. EVANS (Weber). Mr. President, as I had the honor of introducing the first resolution on yesterday I think it is due me that I should reply to the gentleman from Salt Lake, who seems to desire to cast some aspersions upon gentlemen who have introduced propositions.

Mr. CANNON. No.

Mr. EVANS (Weber). And also the reflection that it is not done with a selfish desire to make a record.

The PRESIDENT. The gentleman certainly did not intend to do that, did you?

Mr. CANNON. I could not hear that gentleman's remark.

Mr. EVANS (Weber). I am only beginning. This Convention partakes of the character of a legislature. It has in its sphere the same functions to perform that a legislature has. It is supposed that something will be introduced for committees to work with. It is supposed that suggestions will be made by individuals to have them read to the members of the Convention in order that it may help them in looking up the particular subject matter. I presume the gentleman from Salt Lake knows all these things. He thinks everybody else does, but I am not one of those who believe that any of us does. I would like to have any suggestions about any matter about which I might have anything to do in a committee. It is nothing but a suggestion. It suggests to the minds of the members of the Convention what is in the mind of the particular person introducing the measure. We have proper rules governing this Convention, which are yet in force.

The fourth rule provides:

(Reads.)

The PRESIDENT. I would ask the gentleman what language in the gentle-

man's remarks was objectionable to you?

Mr. EVANS (Weber). The gentleman rose for information, as I understood it. He wanted to know the purpose for introducing these things. I am proceeding to explain.

The PRESIDENT. I do not think there was anything objectional in the gentleman's remarks.

Mr. EVANS (Weber). There was an aspersion, if I may be permitted to speak the word, or reflection upon the gentlemen who have introduced these propositions, because he stated he didn't know the purpose unless it was for the purpose of making a record. I can assure the gentleman from Salt Lake and the members of this Convention, that I had no such intention in the introduction of those propositions which I have introduced. I had simply desired to introduce them for consideration, just the same as a bill would be introduced in the Legislature and that it be referred to the appropriate committee.

Mr. CANNON. May I ask the gentleman a question?

Mr. EVANS (Weber). Certainly; I will be pleased to have you.

Mr. CANNON. I rose for information as I stated, and I should be pleased to receive the information now. My question is, is there any advantage to the Convention gained by a member upon a committee introducing a resolution which shall be referred to that committee that wouldn't be gained by that member referring it to the committee himself? I am sincere in asking for that information, and I would like to hear the gentleman's explanation. One resolution which went to our own committee, but that is the only one, and so far as that question alone is concerned, were it not upon the important question which I offered it, I don't think I would have offered it at all. This is a question which is important and one which ought to be determined one way or the other and will be determined by

this Convention sometime before we adjourn. At least it will be a question about which there will be honest difference of opinion, I may say in the Convention, and I desire the members of the Convention to reflect upon it.

Mr. CREER. Mr. President, I also, by referring to rule three, see that it is made imperative by that rule, that all propositions should be thus introduced to the Convention. (Reads rule three.) I think that applies to—

Mr. THURMAN. Do you think that makes it imperative?

Mr. CREER. Yes, sir.

The PRESIDENT. There is no question before the house.

Mr. VARIAN. Mr. President, I call for the order of business.

Mr. ANDERSON. Mr. President, if I am in order, I move that the chairmen of the different committees meet together for the purpose of deciding the time and place each committee shall meet, that they have the same placed upon the bulletin board in the hall, so each member will take notice accordingly.

The PRESIDENT. It is not in order.

The introduction of ordinances and propositions for insertion in the Constitution is in order.

Are there any more of them? If not, we will proceed to the unfinished business.

Mr. VAN HORNE. Mr. President, I arise to a question of information. I heard a motion and was not able to hear whether it was declared carried or not by the chair that these ordinances and resolutions should be referred to the committee on printing.

The PRESIDENT. It was ruled out of order at that time.

Motions and resolutions.

Mr. ROBERTS. Mr. President, I move that the committee on accounts and expenses be instructed to take steps to provide for temporary drawers or lockers or some other contrivance to put on these tables, or under them, for

the convenience of members in securing their papers, books, etc.

Mr. THURMAN. I second the motion.

Mr. ROBERTS. Mr. President, I call attention of the Convention to the very inconvenient furniture that is here, unless something of this kind shall be done. At present, of course we don't feel this inconvenience, but when this Convention shall resolve itself into committee of the whole, and the important debates shall take place, it occurs to me that members will require some convenience for storing their papers and books of record. The Convention will not be in long sessions during this week perhaps, while the committees are shaping matters to be presented to the Convention, and it seems to me, sir, that the time is opportune for this committee or some one else that may be designated to take steps that will furnish members with these conveniences. Therefore, I have taken the opportunity of presenting this matter for the consideration of the Convention, and desire most earnestly that some steps be taken to provide the convenience contemplated.

Mr. JAMES. Mr. President, before the motion is put, I would like to have it qualified some little. Let it go to the committee on accounts and expenses and report back what the cost will be, and then adopt it, if we think it is worth the cost.

Mr. ROBERTS. Mr. President, I accept the gentleman's modification with the consent of my second.

Mr. MALONEY. Mr. President, I think the county authorities ought to be consulted on that.

The PRESIDENT. If it goes to this committee they will look after that.

Mr. BARNES. Mr. President, I move that it be referred to the committee on accounts and expenses, and as I understand it, this is the property of Salt Lake County, and will we not have to get permission from some party before anything can be done in that regard?

The PRESIDENT. The city officers are the men to call upon.

Mr. ROBERTS. Mr. President, I would suggest that the motion contemplates the committee taking steps looking towards the accomplishment of this, which would of course include consultation with the county officers in regard to this furniture. I will further say that as the motion looks to the temporary furnishing, it does not look to the marring of this furniture in any way.

The motion was carried.

Mr. Varian offered the following resolution:

Resolved, that the sergeant-at-arms be instructed under the supervision of the committee on accounts and expenses to procure a suitable clock for the Convention chamber.

Mr. VARIAN. Mr. President, as the question of expenses is involved in that, I move its reference to the committee on accounts and expenses.

Carried,

Mr. Kiesel offered the following resolution.

Resolved, that the mayor of Salt Lake be admitted to the floor of the Convention during its session.

Mr. VARIAN. Mr. President, I move that that go over and come up under the head of special orders to-morrow at half-past two. It involves the suspension of these rules and requires a two-thirds vote to accomplish it. The whole matter can be attended to to-morrow.

Carried.

Mr. Kiesel offered the following:

Resolved, that the chairmen of committees meet and formulate a schedule for the meeting of committees and have the same printed, thus making an end to the confusion at present existing.

Mr. KIESEL. Mr. President, I move the adoption of that.

Mr. EVANS (Weber). I second that.

Mr. GOODWIN. If Mr. Kiesel will

designate some place and time when the chairmen can meet, it will help matters.

Mr. KIESEL. Mr. President, I would suggest that one of the chairmen would make a motion appointing a time to meet. Of course, I left that out on purpose, because that belongs to the chairmen themselves.

The motion to adopt the resolution was carried.

Mr. Lambert offered the following:

Resolved, that the printing committee be authorized to obtain bids for furnishing the Convention with letter heads and such other stationery as it is necessary.

Mr. LAMBERT. I move that it be adopted.

Seconded.

Mr. VARIAN. How much stationery and letter heads are required?

A great many of us here do not want any letter heads or stationery. That is very general. It seems to be very indefinite.

Mr. LAMBERT. That is simply so that when wanted it shall come in competitive bids.

Mr. VARIAN. Mr. President, I don't see any use of wasting much money on stationery; if these gentlemen do not require it, certainly we who live here do not require any.

Mr. CANNON. Mr. President, before the motion is put, I would like to know how much stationery, as Mr. Varian has said, this committee thinks will be needed. It strikes me there should be very few letter heads and very few envelopes. The main part of the work will be done in committees, and the main part of the stationery needed by the committees or in the Convention.

Mr. JAMES. Mr. President, I think the motion explains itself. It does not order any paper or authorize the order of any paper; it simply asks for bids, and when we get the bids we can order one quire or a hundred by those bids.

Mr. VARIAN. I want to ask the gen-

tleman how he can get an intelligent bid unless the trader has some intelligent data to put his bids in upon?

Mr. JAMES. I suppose he would make a bid on certain quantities, and in proportion to what the quantity is, it will decrease the price; that is the way that bids come in, as a rule.

Mr. VARIAN. I think it had better be left to a requisition from the chairmen of the committees.

Mr. LAMBERT. Mr. President, this thing is very plain. It is a business proposition. What we purchase here—we know what we are paying for, instead of going and buying it at random; it is in the interests of the Convention that we may not be overcharged in things we purchase.

Mr. CANNON. I would like to ask the gentleman a question. What quantity of paper would you like, Mr. Chairman?

Mr. LAMBERT. Get bids on any quantity; we are buying so that we know the price.

Mr. CANNON. I am opposed to the motion until the gentleman knows what he does want.

Mr. RICHARDS. It seems to me entirely unnecessary to pass this motion. If the committee on printing deem it necessary to obtain bids on this subject, they certainly have the right to do it. Then they can submit those bids to the Convention, if they contemplate the purchase of stationery, and the Convention can authorize the purchase if it desires. It seems to me this is all the power that is necessary to do this preliminary work without a special motion. It might be that some other material may be desired and it should not be necessary that every time we meet the committee on printing should come here and ask this Convention if they receive bids. Let them receive their bids, and then if they desire to make purchases, let them ask leave of the Convention to make the purchases.

Mr. SQUIRES. Mr. President, I just

want to call the attention of the Convention to the fact that this committee has already submitted one estimate to the Convention of stationery needed, and recommended its purchase, and that the Convention declined to accept that matter from the committee and voted it down. I don't know why they come back and want to get bids on the same proposition.

Mr. THORESON. Mr. President, it seems to be thought that this is a provision for members from the outside. Still I don't hear anything from the people of Salt Lake about the proposition.

Mr. GIBBS. Mr. President, I notice there is considerable stationery already—letter heads that have been bought and distributed here on the tables for the use of the Convention, and therefore, I think the motion is in order and it should prevail. As I understood the resolution yesterday, it stated a certain number of quantities that should be bought and probably some thought that it was a little excessive. Now, I think it should be open for bids, so that we may have the benefit of the lowest bidders in the market.

The PRESIDENT. The question is on the adoption of the resolution. All in favor of the motion say aye.

Opposed, no.

The chair is in doubt.

By a rising vote the motion was adopted, ayes 54, noes 52.

Mr. PIERCE. Mr. President, I move you that the matter of fixing the compensation of the officers of this Convention, whose compensation is not fixed by law, be referred to the committee on accounts and expenses.

Carried.

Mr. VARIAN. Mr. President, didn't I hear a report read that was adopted this afternoon, covering that matter? I certainly heard the names of the officers read.

Mr. RICHARDS. I remind the gentle-

man, from Salt Lake, that the report was simply filed.

Mr. VARIAN. Mr. President, we adopted a resolution that the chairmen of the several committees provide a schedule for the meeting of the committees. I presume we might as well bring it up in open Convention for the purpose of testing the sense of the several chairmen on that subject. I move that the chairman of each committee meet to-morrow at eleven o'clock in this hall, for the purpose of carrying out the direction of the Convention.

Seconded.

Mr. ROBERTS. Mr. President, I would offer an amendment to that, that they meet immediately after the adjournment of this meeting.

Mr. VARIAN. Unless there is some special reason for it, it would be a convenience to one or two of us to let it go over until to-morrow morning.

Mr. ROBERTS. The only thing about it is, it seems to me we ought to begin to get this committee work going as soon as possible, and if it is not impossible to accomplish the thing, I would like to see the committees at once make their appointments.

Motion to amend seconded.

Mr. CANNON. Mr. President and gentlemen of the Convention, I think that this is a matter that should be referred more to the chairmen of those respective committees. I will state in answer to the gentleman from Davis County that several of the committees have appointments—I don't know how it is in all the cases, but all the committees that I am connected with or upon have appointments already.

Mr. ROBERTS. Immediately after this meeting closes?

Mr. CANNON. At different hours. I know the hour fixed by Mr. Varian would suit most of the gentlemen or at least a number of them.

Mr. SQUIRES. Mr. President, I suggest that the vote on this motion of Mr.

Varian, be taken by the chairman of the committees.

The PRESIDENT. Then they had better hold their own meeting.

Mr. VARIAN. I made the motion in order that the several chairmen present might express their views on the subject. That is the purpose only. I don't care to interfere with the other chairmen.

Mr. PIERCE. Mr. President, I am on several committees and have appointments with those committees to-day and to-morrow forenoon. It seems to me that this is a matter that would take perhaps only a short time, and it would seem to me that if we were to meet to-morrow say at half past one, half an hour before the Convention convened, that it would be a good time to meet and confer about the matter.

Mr. VAN HORNE. Mr. President, I am in favor of a meeting of the chairmen of those committees to-morrow just preceding the meeting of the Convention. We will then be able to make our appointments in the Convention for the committees. I move the amendment that to-morrow at half past one o'clock be the time that the committee chairmen meet for the purpose of arranging a schedule of committees.

Mr. VARIAN. I accept that if there is no objection to it.

The PRESIDENT. Gentlemen you have heard the motion, that the chairmen of committees meet to-morrow at half past one o'clock—the amendment of Mr. Roberts that it be directly after this meeting.

Mr. KIESEL. Mr. President, I move that the the chairmen only be allowed to vote.

The PRESIDENT. That is out of order. I think that we cannot do that.

Mr. CANNON. Mr. President, I move as a substitute for the whole question, that unless there be some objection, by any chairman present, it be understood that the chairmen meet to-morrow at half past one o'clock.

Carried.

Mr. GOODWIN. Mr. President, I notice that the papers that were handed up were mostly in the handwriting of gentlemen, a great many in the handwriting of lawyers; they are invariably bad penmen; I am afraid a great many of them will never be read. It seems to me for the convenience of this Convention and for expediting business in the committees that those papers ought to be prepared with some care and typewritten. Hence I venture on the dangerous ground of moving that one committee clerk who is a stenographer and typewriter, be appointed by this Convention.

Seconded.

Mr. EVANS (Utah). Mr. President, is that intended to be in addition to the two that were spoken of here before?

Mr. GOODWIN. There have been none elected or appointed yet, it was voted down yesterday.

Mr. CANNON. Mr. President, I would like to call the gentleman's attention to the fact that it was decided we should have three committee clerks, the only thing is we haven't named them yet. It seemed to be the sense of the Convention that they should not be named yet.

Mr. GOODWIN. Mr. President, it was the sense of the Convention that they should be named as soon as necessary. I want to name one now.

The motion of Mr. Goodwin was carried by a vote of 48 ayes to 43 noes.

The PRESIDENT. I suppose nominations are now in order in regard to this?

Mr. SQUIRES. Mr. President, I was going to place in nomination one of the candidates that was presented for the official stenographer of the Convention, Miss MacMasters, who I believe is thoroughly and duly qualified for such position.

Mr. HILL. Mr. President, I place in nomination Mr. E. M. Ashton, of Salt Lake.

Mr. CRANE. I place in nomination

for committee clerk, Mr. Ben Bachman of Utah County.

Mr. THURMAN. He is not a stenographer.

Mr. LAMBERT. Yes, sir.

Mr. THURMAN. Who is?

Mr. LAMBERT. Ben Bachman, so he claims to be.

Mr. THURMAN. Well, he is not.

Mr. STOVER. Mr. President, I will name L. C. Johnson, who is thoroughly qualified in every respect; he is a typewriter and did the duties for twenty-one committees in the Legislature last winter. There is no more capable clerk in this city than L. C. Johnson. [Applause.]

Mr. EICHNOR. Mr. President, I move as a substitute that the selection of a committee clerk be referred to the committee that hired our stenographer. Mr. Wells is chairman, Mr. Roberts is on that committee, Mr. James, Mr. Eldredge, and Mr. Thurman. I move that as a substitute.

Mr. SQUIRES. Mr. President, after the report of that committee on stenographers, in which the cause of my candidate was severely handled or let alone, I shall not favor the reference of this matter to that committee.

Mr. IVINS. Mr. President, I am opposed to referring this question to this committee from the fact that after the report of that committee had been made in regard to stenographer we devoted as much time to discussing it as we will devote right here this afternoon to the appointment of a committee clerk and probably, we would have to go all over it again to-morrow; we might just as well do the work now, and be done with it.

Mr. CANNON. Mr. President, I favor the nomination of Miss MacMasters for the reason that I believe she is perfectly capable of doing the work required, and that we will by this means give representation to the fair sex.

Mr. EVANS (Weber). Mr. President, I desire to place in nomination the

name of a lady who has been present here during all of our deliberation; that of Miss Henrietta Clark. She is thoroughly competent, I understand, and that will recognize the sex, as she is willing to work cheap. She is an honest lady devoted to her work and does not seem to be very much devoted to the gentlemen around her.

Mr. COREY. Mr. President, I move that the nominations be now closed.

Carried.

Mr. IVINS. Mr. President, I move that the roll be called, and that each man as his name be called announce the name of his candidate, hoping that a majority of the members of this Convention will vote for Miss Clark.

Seconded.

Mr. BUTTON. Mr. President, will it take a majority of the members present to nominate?

The PRESIDENT. It will take a majority of the members present to elect.

Mr. KIESEL. Mr. President, I move that Miss Clark be nominated by acclamation.

Mr. EVANS (Weber). I second that motion.

The PRESIDENT. You have heard the motion, gentlemen, of Mr. Kiesel, of Ogden, that Miss Clark be elected by acclamation.

Mr. SQUIRES. Mr. President, that cannot be done, except by unanimous consent, and I object.

Mr. KIESEL. I ask unanimous consent.

Mr. SQUIRES. I object.

Mr. EVANS (Utah). Mr. President, I move you as an amendment to Mr. Ivins' motion that when the roll be called, that after the first calling all candidates be dropped except the two receiving the highest number.

Mr. HART. Mr. President, I arise to a point of order. This motion of Mr. Kiesel to elect by acclamation is out of order. The question is now on the motion to commit and the motion to elect by acclamation would be out of order

anyway, where there is more than one candidate. That simply means that we vote orally; that is all that means.

Mr. EICHNOR. Mr. President, with the consent of my second I will withdraw the motion to commit this matter to the committee.

Mr. HILL. Mr. President, I respectfully withdraw the name of E. M. Ashton, as a nominee.

Mr. BUTTON. I move that we proceed with the roll call.

Mr. IVINS. My motion was that the roll be called and that each man as his name is called announce the name of his candidate.

Carried.

Mr. HART. Mr. President, the motion of Judge Goodwin contemplated the election of a stenographer and typewriter. Before we vote, I would like to ask as to the qualifications of the two gentlemen candidates, as to whether they were stenographers and typewriters. I know them both to be typewriters but I don't know whether they are stenographers or not.

Mr. EVANS (Weber). Mr. Bachman is not a stenographer as I understand it.

The PRESIDENT. His name then does not properly come on the roll.

Mr. EVANS (Weber). I have known him a long time, and if he is, he has recently acquired the art.

Mr. CRANE. Such being the case, Mr. President, I will, with the permission of the chair, withdraw Mr. Bachman's name.

Mr. SQUIRES. Mr. President, I will ask if anybody can vouch for Mr. Johnson as a stenographer. I am told that although he handled seventeen committees in the last legislative council, he did it without being a stenographer; I believe that is a fact.

Mr. STOVER. Mr. President, he is a first class typewriter and capable of doing the duties of twenty-five committees.

Mr. SQUIRES. I understand that, but it seems under the circumstances we are narrowed down to the two ladies in the case, which is a very proper condition of things, I appeal to this Convention.

Mr. THURMAN. I understand they are partners.

The PRESIDENT. Can anybody answer positively in regard to Mr. Johnson being a stenographer?

Mr. EVANS (Weber). Mr. President, probably this whole question could be solved in a moment, I understand there are three committee clerks to be appointed. I ask unanimous consent that Miss MacMasters and Miss Clark be two of those clerks and that the rules be suspended and they be elected by acclamation.

Seconded.

Mr. VAN HORNE. Mr. President, we are already considering a motion that we appoint one committee clerk who shall be a stenographer and typewriter; the other motion or suggestion is out of order.

The PRESIDENT. That is correct.

Mr. EVANS (Weber). It is if there is any objection.

Mr. VAN HORNE. I certainly do object. Roll call.

Mr. EVANS (Weber). Mr. President, I move then as a substitute, that Miss MacMasters and Miss Clark be appointed committee clerks for the committees of this Convention.

The PRESIDENT. There was provision made for but one.

Mr. KIESEL. Mr. President, I now move for a substitute to all, that the question of appointing clerks—stenographers and typewriters be referred to the same committee that had the McGurkin matter in charge.

Seconded.

The PRESIDENT. We have adopted here the motion of Judge Goodwin, that we proceed to the selection of one stenographer; the secretary informs me that

we adopted a motion here to select three sometime ago.

Mr. EVANS (Weber). Mr. President, that is what I had in mind. I understood Judge Goodwin's motion went to the immediate selection of one in order that the committee might use it, but if that has been passed upon, why not select two of them now?

Mr. GOODWIN. Mr. President, it was agreed that there should be three committee clerks appointed or elected. The proposition was made yesterday to appoint those clerks and it was voted down. I didn't dare to propose the three, so I proposed one to-day and if two could be included I should be glad.

Mr. THURMAN. Mr. President, there is a difference in the motions, however. The motion to-day includes a stenographer, the three clerks were to be typewriters only. Now they are different propositions altogether.

Mr. SQUIRES. Mr. President, I want to assure my friend from Weber County that just as soon as we have succeeded in electing Miss MacMasters on the first ballot I shall cheerfully vote for a motion to elect another committee clerk, and allow his friend Miss Clark to be elected.

Mr. GOODWIN. Mr. President, that is a shameful exhibition of partisanship. [Laughter.]

Mr. IVINS. Mr. President, I submit that this whole discussion is out of order. We were proceeding to the election of one committee clerk. The motion prevailed that nominations close. The roll call was called for and the clerk had already begun to call the roll, before this latter discussion ever begun. I submit that the only thing for this body to do is to go on with the roll call and elect one committee clerk.

The PRESIDENT. The point is well taken.

Mr. BUTTON. Mr. President, I want to know if Mr. L. C. Johnson is in this.

The PRESIDENT. No, sir; he is not a stenographer.

Mr. BUTTON. I want to know if it is decided whether he was a stenographer; it would make a difference in my vote whether he could qualify or not.

Mr. MURDOCK (Beaver). His name was withdrawn.

Mr. STOVER. Mr. President, I said he was a typewriter and had performed the duties for twenty-one committees last winter in the Legislature, but he is not a stenographer.

Miss B. T. MacMasters was then elected to the position of committee clerk.

Mr. CANNON. Mr. President, I move that we now proceed to elect the other two committee clerks.

Mr. VAN HORNE. I move that this Convention do now adjourn.

Seconded.

The PRESIDENT. Gentlemen, you have heard the motion to adjourn, all in favor of the motion will say aye. Opposed no.

The chair is in doubt.

All in favor of the motion will rise to their feet.

The motion to adjourn was lost by a vote of 39 yeas to 51 noes.

Mr. IVINS. Mr. President, I now move that Miss Henrietta Clark be chosen as committee clerk of this Convention.

Mr. CANNON. Mr. President, the gentleman is out of order. The motion to now appoint committee clerks is before the house.

Mr. IVINS. Wasn't there such a motion as that before the house since the motion to adjourn—was there such a motion made?

The PRESIDENT. No. It was pending when the motion to adjourn was made.

Mr. IVINS. What was the motion?

The PRESIDENT. The motion was that we proceed to elect two more committee clerks.

Mr. IVINS. Well, we don't want

two, we can probably get along with one. As an amendment to that motion, I move that we now proceed—or I nominate Miss Henrietta Clark to be committee clerk for the Convention.

Seconded.

Mr. KEARNS. Mr. President, I move that she be elected by acclamation.

Mr. VAN HORNE. I object; if they want to vote we will vote.

The PRESIDENT. It seems to me the question should properly be before us as to whether we will elect another clerk or not.

Mr. IVINS. Mr. President, I move that under a suspension of the rules Miss Henrietta Clark be chosen as committee clerk for this Convention by acclamation.

Seconded.

Mr. BUTTON. Mr. President, I move to amend that motion that we elect two committee clerks, Miss Clark and Mr. L. C. Johnson.

Seconded.

Mr. IVINS. That is precisely what the original motion was which I amended; I submit that the amendment to the amendment is entirely out of order from the fact that it brings it right back to the original motion in so many words.

The PRESIDENT. The objection is well taken, I think.

Mr. CANNON. Mr. President, I arise to a point of order. The gentleman from Washington County makes a motion which is in opposition to the motion before the house and which is in order. It was decided that the committee clerks be not at this time named and we cannot take up the matter until we reconsider that action. I am in favor of the gentleman's motion if he limits it until such time as we can get it before the house.

Mr. BUTTON. Mr. President, I named two committee clerks that were not named in the previous motion.

Mr. EICHNOR. Mr. President, I move as a substitute for all previous mo-

tions that we now proceed to elect one committee clerk.

Seconded.

Mr. HART. Mr. President, I arise to a point of order for the reason that one motion cannot be displaced and another motion of a different kind be given place on the same subject by simply calling it a substitute.

The rule is one thing at a time. I also arise to a point of order, that the amendment of Mr. Ivins is out of order and that the original question now should come on Mr. Cannon's motion. He simply tries to amend the motion by nominating one individual for that place; I submit that is not a proper amendment. If Mr. Cannon's motion carries then the question will come on nominations.

Mr. EVANS (Weber). Mr. President, I move that the chair rule everything out of order except the substitute, and that that be put without further debate.

Mr. EVANS (Utah). Mr. President, I move as an amendment to Mr. Cannon's motion that we proceed to elect one committee clerk.

Carried.

Mr. IVINS. Mr. President, I now renew my motion that Miss Henrietta Clark be elected committee clerk.

Mr. KEARNS. Mr. President, I move that it be done by acclamation.

DELEGATE. I call for the roll call.

Mr. EVANS (Utah). Mr. President, I ask the gentleman if he has had the consent of five members.

Mr. VAN HORNE. Mr. President, I wish to put in nomination as committee clerk of this Convention, Mr. L. C. Johnson, whom I know to be perfectly competent to perform the duties required in every way, and I know that he is at present doing work for the chairmen of some of our committees and I think that this Convention would do wrong to him and would do wrong to the Convention itself if they do not select him as one of their clerks.

Mr. CRANE. Mr. President, I desire to place in nomination a gentleman who I think is perfectly competent. He has been committee clerk during the session of the Legislature and gave good satisfaction to all the committees. I place in nomination Mr. Ben Bachman from Utah County.

Mr. ELDREDGE. Mr. President, I second the nomination of Mr. Ben Bachman.

Mr. HILL. Mr. President, I wish to renew my nomination of Mr. E. M. Ashton.

Mr. MURDOCK (Summit). Mr. President, I nominate Miss Snyder of Park City.

Mr. EICHNOR. Mr. President, I arise for information. It was stated here that Mr. Bachman of Utah County was no stenographer. I know nothing about it—I am so informed by the gentleman from Utah County.

The PRESIDENT. As I understand this motion, it does not require a stenographer.

Mr. CANNON. Mr. President, the requirement was made at the time the officers were named as I understand it.

Mr. LOWE (Box Elder). Mr. President, I arise to place in nomination the name of Miss Eastman of Box Elder County as committee clerk.

Mr. CREER. I move that the nominations be now closed.

Carried.

Mr. IVINS. Mr. President, I desire before the roll is called to say just a word in regard to the qualifications of these different candidates. It is very true that under the motion which is before us now, it is not necessary that this committee clerk should be a stenographer, but I believe it is just as patent to every member of this Convention that a great advantage will be derived if a person can be selected who is a stenographer, and in all respects qualified as though that had been embraced in the motion. Now, gentlemen, there is no one of these candidates, with the

exception of Miss Clark, who has been recommended to be a stenographer at all. She is a lady and we have every reasonable cause to believe that her services can be procured for as little money and perhaps less than we would have to pay to some of these men who are not qualified to do the same amount of work, as creditably as this lady can do it. This being the case, it seems to me there should be but one side to this question. The lady because of her qualification is entitled to this place in preference to any other person who has been nominated, and because of her qualification I ask, gentlemen, that she be elected.

Mr. EVANS (Weber). Mr. President, a good many inquiries have been made as to whether this lady is a Democrat. My Republican friends think that she is because some of us are urging it. As a matter of fact she is a Republican; now, there ought not to be any objections on that ground. [Applause.]

Mr. EICHNOR. Mr. President, I told Mr. Evans before he made that remark that I would support and did not care what she was.

Mr. CANNON. Mr. President, the gentleman's explanation was entirely uncalled for; we knew from the appearance of the lady that she was a Republican, and, therefore, I second the nomination. [Laughter and applause.]

Miss Henrietta Clark was then elected a committee clerk.

Mr. Squires then took the chair during a temporary absence of the president.

Mr. EVANS (Utah). Mr. President, I move we do now adjourn.

Seconded.

Mr. PIERCE. There is a committee announcement.

Mr. EVANS (Utah). I will withhold it one moment for that announcement.

Then followed the announcement of several committee meetings.

The PRESIDENT. Gentlemen, with

your permission, the secretary will read a communication.

The secretary then read as follows:

Salt Lake City, Utah,
March 12, 1895.

To the Hon. John H. Smith and Members of the Constitutional Convention:

GENTLEMEN: We have studied the lighting to photos of your honorable body on these steps of the city and county building and that 3 p. m. is the best hour, and would consider it a great favor if you would oblige us with sitting at that hour to-morrow, Wednesday, March 13. Should to-morrow be not convenient to your honorable body, please advise by stating a date that would meet your convenience and oblige,

Most respectfully yours,
SAINSBURY & JOHNSON,
JAS. H. CROCKWELL,
WILL. M. OTTINGER.

Salt Lake City, Utah,
March 11, 1895.

To the Hon. John Henry Smith, President, Constitutional Convention, Salt Lake City, Utah.

GENTLEMEN: Through your sergeant-at-arms the matter has been brought to our attention of the desire of the Convention for a telephone; permit me in behalf of this company to tender you an instrument available to the members in Salt Lake exchange without charge.

We attach a coin controlled apparatus, which will enable parties desiring to use our long line to make payment at the instrument.

Hoping your labors will result to the good of the whole Territory, which I feel assured they will, I remain,

Yours respectfully,
GEORGE Y. WALLACE,
President.

Mr. STOVER. I move we accept it with the thanks of this Convention.

Carried.

Mr. HART. Mr. President, some action should be taken on the invitation of the photographers.

For the purpose of bringing it before the Convention, I move you that we accept the invitation for to-morrow at three o'clock.

Mr. IVINS. Mr. President, I wish to offer an amendment to that motion, that we accept his offer and sit for a picture after the adjournment of this

Convention to-morrow or some other day. It seems to me it would look very bad for us to get up in the midst of our deliberations and go down to the east door in order to have our pictures taken.

Mr. EICHNOR. Future generations want it.

The PRESIDENT. I call attention to the fact that they have experience there, and they say that three o'clock is the best hour.

The motion of Mr. Hart was carried.

The Convention then at 4:55 p. m. adjourned.

TENTH DAY.

WEDNESDAY, March 13, 1895.

The Convention was called to order at 2 p. m. by President Smith.

Prayer was offered by Right Rev. A. B. Leonard, of the Episcopal Church.

The roll was called by the secretary and the following members found to be in attendance:

Adams	Low, Peter
Allen	Low, Cache
Anderson	Lund
Barnes	Maeser
Bowdle	Mackintosh
Brandley	Maloney
Button	Maughan
Buys	McFarland
Call	Miller
Chidester	Morris
Christianson	Moritz
Clark	Murdock, Beaver
Coray	Murdock, Wasatch
Corfman	Murdock, Summit
Crane	Nebeker
Creer	Page
Cunningham	Partridge
Cushing	Peters
Eichnor	Peterson, Grand
Eldredge	Peterson, Sanpete
Emery	Pierce
Evans, Utah	Raleigh
Evans, Weber	Ricks

Farr	Roberts
Francis	Robertson
Gibbs	Robinson, Kane
Goodwin	Robison, Wayne
Green	Ryan
Haynes	Sharp
Halliday	Shurtliff
Heyborne	Snow
Howard	Spencer
Hughes	Squires
Hyde	Stoyer
Ivins	Strevel
James	Symons
Johnson	Thompson
Jolley	Thatcher
Kiesel	Thorne
Keith	Thoreson
Kearns	Thurman
Kimball, Salt Lake	Van Horne
Lambert	Varian
Larsen, L.	Warrum
Larsen, C. P.	Wells
Lemmon	Whitney
Lewis	Williams.
Low, William	

The journal of the ninth day's session was read by the secretary, and approved.

Mr. VARIAN. Mr. President, I call for the special orders.

The PRESIDENT. The consideration of the rules will come up now as the special order for 2:30.

What is the pleasure of the Convention?

Mr. PIERCE. Mr. President, I move you that rule fifteen, the list of standing committees, subdivision ten, be made to read:

"Public buildings and state institutions not educational."

That was according to the report of the standing committee, which you will find on page 4 of the journal, committee ten. The purpose of this is that other state institutions will be handled by the committee on education and school lands.

Mr. VARIAN. Mr. President, I move, inasmuch as by ordinary rules of busi-

ness of this kind, the committee on rules ought to have this matter in charge, that the Convention proceed to read these rules, by sections or by rules, seriatim, and that amendments if they are offered be received as each section is read and the Convention in that way pass upon the rules in their order.

Carried.

The secretary then read rule one.

Mr. VARIAN. If there are no amendments, Mr. President, I suggest that we proceed to the next rule.

The PRESIDENT. If there is no objection the secretary will read the next rule.

The secretary then read rule two.

Mr. VARIAN. I move that rule be adopted.

The PRESIDENT. If there is no objection the rule will be adopted.

The secretary then read rule three.

Mr. VARIAN. Mr. President, I move that rule be adopted and in explanation of the fifth paragraph, I will say that it is contemplated in under that head the Convention will go into the committee of the whole if it shall be necessary, there being no special order of business designated for that head.

Mr. THURMAN. Before putting that rule for adoption, I offer an amendment in line three, after the word same, "When the journal is corrected the same shall be deemed approved." Unless it be taken as the sense of this Convention that the president must put the question every day as to whether the minutes are corrected or not, I think when corrections cease, the minutes should be deemed approved.

Mr. VARIAN. Will the gentleman permit me to make a suggestion, while he is on the floor? Isn't that the proper thing for the presiding officer to say, "If there is no objection, the minutes will stand approved." Is it necessary to incorporate it in a standing rule?

Mr. THURMAN. If that is understood, all right.

Mr. VARIAN. I certainly so under-

stand it. That is usually proper for the presiding officer to say, "If there are no further corrections, the minutes will stand approved as read."

Mr. THURMAN. That accomplishes my purpose, if that is understood.

Mr. RICKS. Mr. President, Roberts' rules of order settle the question as stated by Mr. Varian.

Mr. COREY. Mr. President, I will ask for information, if the roll is called part of the order of business?

Mr. VARIAN. No, Mr. President, the roll call precedes the organizing as it were. We must call the roll to ascertain whether there is a quorum present. I move the adoption of that rule.

The PRESIDENT. If there is no objection, gentlemen, the rule will be adopted as read.

The secretary then read rule four.

Mr. VARIAN. I move to insert at the end of that rule after the word committee, in the last line, the following:

"Every proposition for insertion in the Constitution shall be plain pen or type written on one side only of the sheet and without interlineation or erasure."

Seconded.

Mr. VARIAN. Mr. President, it will be observed that that amendment does not propose to limit members in this particular as to other matters of less importance. It is conceived, however, that a matter that is to be proposed to the Convention and go through the various parliamentary stages and through the committees for insertion in the Constitution, ought to be prepared with care, at least as indicated by this amendment, and the members ought to be willing to take time enough to present a clean, clear proposition, without erasure or interlineation, so that those who have to read them—the clerks and the committees, will not have their difficulties increased in any event.

I move the adoption of that amendment and the adoption of the rule as amended.

The PRESIDENT. If there is no objection, it will be adopted.

The secretary then read rule five.

Mr. VARIAN. Mr. President, I move to adopt this rule.

The PRESIDENT. If there is no objection we will adopt this rule as read by the secretary.

The secretary then read rule six.

Mr. VARIAN. I move the adoption of the rule as read.

The PRESIDENT. The rule will be adopted if there is no objection.

The secretary then read rule seven.

Mr. VARIAN. I move the adoption of the rule.

Mr. VAN HORNE. Mr. President, I suggest that "shall," the last word in the fourth line of the rule, should be changed to "will."

Mr. VARIAN. I think that would make it more awkward. I move the adoption of the rule as read.

The PRESIDENT. If there is no objection, the rule will be adopted as read. I would state to the Convention that the hour has arrived at which you consented yesterday to meet the photographer below here. You can act your pleasure, however.

Mr. VARIAN. Mr. President, I hope we will go on and let the photographer wait. Let's get through with these rules.

Mr. HILL. I favor that proposition, Mr. President.

The secretary then read rule eight.

Mr. VARIAN. Mr. President, I move the adoption of that rule as read.

The PRESIDENT. If there is no objection the rule will be adopted as read.

Mr. ROBERTS. Mr. President, I propose the following amendment, by inserting the following words after "discourse" in the last line but one from the bottom, that it shall read as follows: "And while a member is speaking no member or other person shall entertain any private discourse to the disturbance of the speaker or pass between the member speaking and the chair."

I think that as the rule stands, it is extremely strict; a gentleman might say a word or two.

Mr. VARIAN. Mr. President, I would like to suggest to the gentleman that that rule is not adopted simply for the convenience and comfort of the speaker because he happens to be addressing the house. The presumption is, that members want to listen to him. If they do not want to listen to him there is not much purpose in his speaking, and I presume these rules will be construed with reason, not literally. It is not intended to prevent whispering if it does not disturb others. I find it in the rules of other conventions.

The PRESIDENT. There was no second to the motion to amend, I believe. We had passed upon it anyhow.

The secretary then read rule nine.

Mr. VARIAN. I move its adoption.

The PRESIDENT. The rule will be adopted if there is no objection.

The secretary then read rule ten.

Mr. VARIAN. I move the adoption of that rule.

The PRESIDENT. If there is no objection the rule will be adopted.

The secretary then read rule eleven.

Mr. VARIAN. I move the adoption of the rule.

The PRESIDENT. If there is no objection the rule will be adopted.

The secretary then read rule twelve.

Mr. VARIAN. I move its adoption.

The PRESIDENT. It will be adopted if there is no objection.

The secretary then read rule thirteen.

Mr. VARIAN. I move its adoption as read.

The PRESIDENT. If there is no objection the rule will be adopted as read.

The secretary then read rule fourteen.

Mr. VARIAN. The same motion as to that rule.

The PRESIDENT. If there is no objection the rule will be adopted.

The secretary then read rule fifteen as follows:

RULE XV. The president shall ap-

point the following standing committees, to report upon the subjects named and such other matters as may be referred to them, viz:

1. Rules and method of procedure, to consist of five members, including the president, who shall be chairman.

2. Federal relations, to consist of seven members.

3. Preamble and declaration of rights, to consist of eleven members.

4. Legislative, to consist of fifteen members.

5. Judiciary, to consist of fifteen members.

6. Executive, to consist of fifteen members.

7. Elections and rights of suffrage, to consist of fifteen members.

8. Apportionment and boundaries, to consist of twenty-six members, one from each county.

9. Education and school land, to consist of eleven members.

10. Public buildings, and state institutions, to consist of eleven members.

11. Water rights, irrigation, and agriculture, to consist of fifteen members.

12. Municipal corporations, to consist of nine members.

13. Corporations other than municipal, to consist of fifteen members.

14. Public lands, seven members.

15. Revenue, taxation, and public debt, fifteen members.

16. Salaries of public officers, to consist of nine members.

17. Mines and mining, to consist of fifteen members.

18. Labor and arbitration, to consist of seven members.

19. Printing, to consist of three members.

20. Militia, to consist of five members.

21. Manufactures and commerce, to consist of seven members.

22. Ordinance, to consist of seven members.

23. Schedule and future amendments,

and miscellaneous, to consist of nine members.

24. Accounts and expenses, to consist of three members.

25. Engrossment and enrollment, to consist of five members.

26. Compilation and arrangement, to consist of five members.

Mr. VARIAN. Mr. President, I move to insert in subdivisions 14 and 15, in the proper place, the words, "to consist of" and make it conform throughout the rule, and also to strike out the numerals as they shall appear anywhere in the rule, concerning the number of persons and insert the appropriate word.

Mr. WHITNEY. I second the motion.

Mr. PIERCE. Mr. President, committee ten in the report of the committee on standing committees, the name of the committee should be "public buildings and state institutions not educational;" and in rule two the committee provided for by the committee on standing committees, "federal relations and compact."

Mr. VARIAN. Why, Mr. President, is it necessary to encumber that name in that way? Does not "federal relations" cover the whole ground?

Mr. PIERCE. Mr. President, I have forgotten what the argument made was. There was an argument made before the committee to report on standing committees. There was an argument made for it; I don't know what it was, I didn't see the reason for it at the time.

Mr. VARIAN. Mr. President, I suggest that "federal relations" is very comprehensive.

Mr. MALONEY. Mr. President, it was done to conform with the requirements of the Enabling Act.

The PRESIDENT. As the chair understands it, the Convention adopted that committee report, and those were the names that were actually given to those various committees.

Mr. VARIAN. This is the subsequent

action of the Convention. If they adopt this rule, that name will be changed. Now, it is important to have the names of the committees as concise as they may be without being misleading, and I am sure the words, "federal relations" carry with them impliedly everything connected with and concerning the relations of the Convention and the State with the general government.

Mr. EICHNOR. Mr. President, the Enabling Act does not use the words, "compact."

(Reads from the Enabling Act.)

The PRESIDENT. The rule will be adopted as amended if there is no objection.

Mr. SQUIRES. Mr. President, I want to ask a question, if we make rule ten to read "public buildings and state institutions not educational," in order to leave those institutions in charge of the committee on education, why not specify in the committee on education, on page nine, that they shall have charge of public buildings of education? It only provides that they shall have charge of education and school lands. There is nothing said about buildings.

Mr. VARIAN. I don't understand that either of these amendments have been adopted, except those in relation to the numerals.

The PRESIDENT. Just in relation to the numerals, and "to consist of."

Mr. VARIAN. I move the rule now be adopted as it stands.

Mr. PIERCE. Mr. President, I am opposed to that. It ought to be clearly defined in these committees what will be the duty of the committee on public buildings and state institutions and also what is the duty of the committee on education and public lands. It would seem to the committee that had that in charge that the committee on education and school lands should have the charge also of the subject of the educational institutions which are a part of the school system, and if our committees were left in this shape, that the title of

rule ten, "public buildings and state institutions," it might include in it all educational institutions, and therefore lead to confusion, and I think that ought to be corrected as it was formerly reported in the report of the committee on standing committees.

Mr. VARIAN. Mr. President, these names of the committees don't necessarily carry with them anything connected with that particular committee.

That depends upon the Convention. If anything arises concerning educational institutions, and the Convention are desirous, they will send it to the committee on militia or corporations. Ordinarily without objection, it would go to the committee on education. The title does not affect it in any way, but it is not worth while to challenge if the gentlemen insist upon it—

Mr. PIERCE. Yes, sir; I insist upon it and will take a vote on it when we come to it.

Mr. SQUIRES. Mr. President, I think the words "educational institutions" should then be added to the title of the committee on education and school lands.

The PRESIDENT. The question is on Mr. Pierce's motion to amend.

The motion was agreed to.

Mr. ROBERTS. Mr. President, is the question now on the adoption of this rule?

The PRESIDENT. Yes, sir.

Mr. ROBERTS. I wish to offer an amendment combining subdivisions 22 and 23, uniting those committees and also the members of those two committees, and under the discussion on the adoption of this rule, will state the reasons for wanting to make that kind of an amendment. I will also consider this other suggestion a few moments ago in regard to having "compact" added to subdivision 2. "Federal relations and compact."

You will find, Mr. President, that the Enabling Act, as read by the gentleman from Salt Lake a moment ago, provides

that said Convention shall provide by ordinance, irrevocable without the consent of the United States and the people of said State, first, that perfect toleration of religious sentiment, etc., and enumerates a number of things that are to be stipulated as a compact between this State and the United States. Then it also provides later on that the Convention by ordinance may provide for the election of a full set of state officers. Now, what I want to say on the subject is this, that, having observed with some care the matter that is usually put into a schedule, is the provision for the election of state officers, or officers for the state, and it seems to me that there will be, as it now stands, some conflict between the committee on schedule and future amendments and miscellaneous and this committee, as it now stands, on ordinance. But if the amendment is to make subdivision two read "federal relations and compact," it will be understood that this matter that is provided for in the Enabling Act that shall be provided by ordinance irrevocable, etc., that that committee on compact and federal relations will have full charge of that matter, while if we unite subdivisions 22 and 23, making it read: 22. Schedule, ordinance, and future amendments, and miscellaneous," and have the members of those two committees united, it would straighten out all this matter and leave no ground for conflict as to the prerogatives of these respective committees. Therefore, Mr. President, I move you that subdivisions 22 and 23 be made simply 22 and to read as follows: "22. Schedule, ordinance, and future amendments and miscellaneous, 16 members."

Mr. VARIAN. Mr. President, I call for the first motion, the motion to amend is not seconded. I move the adoption of the rule as originally read.

The PRESIDENT. If there is no objection, the rule will be adopted as amended.

The secretary then read rule sixteen.

Mr. VARIAN. Mr. President, I move the adoption of the rule.

The PRESIDENT. If there is no objection the rule will be adopted as read.

The secretary then read rule seventeen.

Mr. VARIAN. I move its adoption.

The PRESIDENT. If there is no objection the rule will be adopted as read.

The secretary then read rule eighteen.

Mr. VARIAN. I move the adoption of the rule.

The PRESIDENT. If there is no objection it will be adopted as read.

The secretary then read rule nineteen as follows:

RULE XIX. Every ordinance, proposition, or other matter reported by any committee for insertion in the Constitution shall, without further orders, be printed and referred to the committee of the whole.

Mr. VARIAN. Mr. President, by this rule, it was intended that all matter coming from a committee of this character, whether it was supported by two reports or by one, should at once go to the committee of the whole, so that the Convention could take its choice, as it were. It occurred to me in thinking it over and looking it over yesterday, that perhaps it is not so clearly put as it might be, and I move to amend it by striking out and inserting in this wise. Strike out in the second line, the words, "for insertion in the Constitution," and insert after the word "shall" the word "with," and before the word reported at the beginning of the line, "for insertion in the Constitution when," so that the rule will read, if the amendment is carried, "every ordinance, proposition, and other matter for insertion in the Constitution, when reported by any committee shall, with all reports thereon, without further orders, be printed and referred to the committee of the whole."

Mr. EVANS (Weber). Mr. President, would not that include a minority?

Mr. VARIAN. Yes, I stated that. That is my purpose for this amendment, to make it clear that the intention of the rule is, that when a minority report comes in—a minority report—it is entitled to the consideration of the Convention. They might adopt it, so that the question will come up: "I move to adopt the report," but that both reports shall, by this rule, immediately go upon the committee of the whole calendar, to be taken up by the Convention when in the committee of the whole at the proper time, and then in that time the Convention will determine which of the two propositions or reports or matters submitted will be adopted by the Convention.

Mr. EVANS (Weber). Mr. Varian, may I ask you a question? Would your amendment permit a minority of the report of the committee to be published?

Mr. VARIAN, Yes, sir. I move the adoption of that rule as amended.

The PRESIDENT. If there is no objection the rule will be adopted as amended.

The secretary then read rule twenty.

Mr. VARIAN. I move its adoption.

The PRESIDENT. If there is no objection this rule will be adopted as read.

The secretary then read rule twenty-one.

Mr. VARIAN. I move the adoption of the rule.

The PRESIDENT. If there is no objection the rule will be adopted as read.

The secretary then read rule twenty-two as follows:

RULE XXII. So soon as any entire proposition for incorporation in the Constitution shall have been disposed of, such proposition, if agreed to by the Convention, shall be referred to the committee on compilation and arrangement, to be by that committee embodied in the Constitution. The committee shall have full power to revise the language used in the various

propositions, and to arrange the same so as to be clearly expressive of the sense of the Convention, and make the instrument complete and consistent within itself. The committee having completed its revision, shall report all the articles of the Constitution to the Convention, when it shall be fully read, and when it is thus read the question shall be on the whole Constitution so received and amended, and if the same shall be decided in the affirmative, the Constitution, as a whole, shall be carefully enrolled under the supervision of the committee on enrollment and engrossment and signed by the president and members of the Convention.

Mr. VARIAN. Mr. President, that rule does not seem to me to be quite as clearly expressive of its intention as the committee on rules thought it was. The intention of the rule is not to give the committee on compilation and arrangement any authority whatever to make any substantial amendment or to do anything more than to harmonize the entire instrument as to its construction and phraseology. The further intention was that its supervising work was to be considered by the Convention when it was reported back. In that view, I desire to offer an amendment, after the word "read" in the third line on page twenty of the printed minutes, "when amendments as to arrangement and phraseology only may be made."

Seconded.

Mr. VARIAN. Now, the Convention will observe that up to this period of time, when the several articles of the Constitution as a whole come back to the Convention, from the supervision of the committee on arrangements; and compilation, the committee has had three separate opportunities to offer amendments. First in the committee of the whole, which is an open field, without limit to debate or time. Second, when it comes back on its third reading from the committee to which it was referred.

It is presumed at that stage of the proposition the several views of the members were embodied by a majority vote, at least, which must be decisive in the proposition under discussion. That in substance it is arranged and constructed as the Convention desires to have it, so that nothing remains but the dressing of it up. For that reason it is committed to the committee on arrangement and compilation. Its functions are as I have stated. When it comes back from that committee, the design is not to permit any amendments of substance. The question then is on the Constitution as a whole.

All these several propositions, which have been considered in detail from time to time by the Convention in committee of the whole and in Convention and in the several committees, have been passed upon, and they have passed into judgment, but that it shall be open to amendments as to the phraseology and the harmony—the situation of one section or article with reference to the other, but no other. And now, with the gentleman's suggestion, I will read the amendment again. (Reads).

Mr. VAN HORNE. Mr. President, I would like to suggest to the chairman of the committee on rules, that a further amendment should be made to that rule by further inserting after the word "read" in the fourth line, "and amended."

Mr. VARIAN. It might not be amended. Of course that goes without saying. If they amend, all right.

Mr. KERR. Mr. President, I wish to inquire of the gentleman whether the Convention shall have the power to offer or make any change in the Constitution after it is reported by the committee on engrossment and enrollment.

Mr. VARIAN. Not, except as stated; I will say Mr. President, there ought to be an end to all things. Not an amendment in substance, but an amendment in phraseology, and construction of the instrument, yes—that is the intention.

Mr. RICKS. Mr. President, I would like to inquire what is meant by the provision on page nineteen, "the committee shall have full power to revise the language used in the various propositions."

Mr. VARIAN. It is meant by that that they shall have power to correct any errors or inaccuracies in grammatical construction, syntax, orthography, or punctuation, or arrangement of several parts with each other and between themselves, the arrangement of the different sections, placing them in the order in which they shall be placed, and present the instrument back here as a whole for the final supervision in the same line only of the Convention. That is what that committee is for.

Perhaps they may not be quite so harmonious in the arrangement as the Convention might desire and the Convention reserves the right to correct and supervise their work, but nothing further.

Mr. THATCHER. Mr. President, I would like to offer to the mover of that section the following suggestion:

Strike out the words, "to revise the language used in various propositions and to arrange the same so as to be clearly expressive of the sense of the Convention," and insert the following: "The committee shall have full power to arrange, compile, and make the instrument complete and consistent within itself." That will comprehend them all, the corrections contemplated in the proposed amendments, and make the rule much shorter, much more comprehensive and the committee itself will more fully understand its powers. It will need no explanation of its authority.

Mr. MALONEY. I second that motion.

Mr. ROBERTS. Mr. President, I wish to offer an amendment to the amendment of the gentleman from Cache County, in the way of a substitute for his amendment.

Insert in the fifth line before "language" the words "grammar of the" and then in the sixth line after "of" the words, "but not to alter." The clause will then read if the amendment should be adopted:

"The committee shall have full power to revise the grammar and the language used in various propositions and to arrange the same so as to be clearly expressive of but not to alter the sense of the Convention, to make the instrument consistent within itself," etc.

The SECRETARY. That would do away with Mr. Thatcher's motion.

Mr. Roberts' motion to amend was seconded.

Mr. ROBERTS. 'Mr. President, I am of the opinion that the powers conferred upon this committee should be somewhat carefully guarded. I grant you, as the gentleman from Salt Lake has stated, that the Convention would have an opportunity to revise all the work of this committee on compilation and arrangement, but when they shall make their report it will be very near the close of the session of this Convention, and it is possible for a committee of this kind even not intentionally to so alter the language, in correcting as they suppose the phraseology, as to affect the legal meaning of the term, and therefore, the purpose I take it, of all these amendments is to limit and definitely express the powers of that committee. It seems to me if we make this clause read as I have suggested it will accomplish the purpose that we are aiming at.

Mr. VARIAN. Mr. President, I don't see that the amendment offered by the gentleman from Davis does anything more than to make the sentence involve unnecessarily. I find no difficulty with the language that is complained of. It was taken from the rule of the constitutional convention of Wyoming. That part of the rule reads as follows:

"The committee shall have full power

to revise the language used in the various propositions."

That does not mean to insert new language, "to arrange the same as to be clearly expressive of the sense of the Convention to make the instrument complete and consistent within itself."

Now, it seems to me that you cannot make that easily more comprehensive and concise. To revise does not need any interpretation here in a standing rule. To revise the language and to arrange it so that it will be clearly comprehensive of the sense of the Convention, carries on its face its purpose.

It means just what it says. It needs no criticism. It is not involved; it is not labored in any way; of course it does not mean that the committee on compilation and arrangement will make a new Constitution or a new section. I hope the rule will stand as originally presented by the committee on rules.

Mr. GOODWIN. Mr. President, it seems to me that this is all right and fully explains itself. The whole thing might be contained in one thing. The committee shall have full power to "edit" the various propositions and make the instrument complete in itself. That word in the second line would make the line plain enough. The objection made by Mr. Roberts does not count, because with all the instruments, it is very possible for the committee to work in a little change themselves. It seems to me the rule is all right. We might spend another hour or two but it carries the whole idea. Simply a smoothing-out committee. I judge so personally by the language, that it is simply to get it before this Convention in readable shape. It seems to me it is better to leave the rule as it is.

The PRESIDENT. As the chair understands it, the motion has been made to adopt the rule in its entirety. It has been amended by Mr. Thatcher and a second amendment has been made by Mr. Roberts. The proposition as I un-

derstand it, is on the amendment of Mr. Roberts.

Mr. GOODWIN. A substitute.

Mr. ROBERTS. That is right.

Mr. Roberts' motion to amend was lost.

The PRESIDENT. The question is on the motion of Mr. Thatcher.

Mr. KIMBALL (Salt Lake). Mr. President, I don't understand Mr. Roberts' amendment to conflict with that of Mr. Thatcher's.

Mr. THATCHER. Mr. President, it very much conflicts with it. My amendment contemplates simply the striking out of these words, "to revise the language used in the various propositions and to arrange the same so as to be clearly expressive of the sense of the Convention." Those are the words that are stricken out by my amendment.

Mr. THURMAN. Mr. President, there can be but one question arise under the phraseology as it is, "the same so as to be clearly expressive of the sense of the Convention." Now, if that means the sense of the Convention as previously expressed, we will pass upon the question. It is deficient as it is; if it could be construed to mean the sense of the Convention at the time they are amending it, so as to perhaps give it a different sense from that at the time it was being passed upon, it ought to be amended. In my own judgment, it expresses as it is in the written copy the fact as we want it, "expressive of the sense of the Convention as previously expressed."

Mr. VARIAN. Wouldn't it be a forced construction? I would ask the gentleman.

Mr. THURMAN. I think so.

The PRESIDENT. The question is on the motion of Mr. Thatcher to amend.

The motion is lost.

Mr. VAN HORNE. Mr. President, before that motion is finally put, I think there ought to be a provision made by

which the committee on revision making its report to the Convention shall report to them the changes that have been made by the committee, in order that the Convention may have their attention called to the particulars in which the committee have changed the expressed sense of the Convention.

The PRESIDENT. I would ask Mr. Varian whether there was any provision of that kind made?

Mr. VARIAN. The committee reporting? Of course that would be a part of its duties. I didn't suppose it was necessary to put down everything here in this rule. I say the committee on rules didn't suppose so. If they make any change of course they will report. If they don't it will be easily ascertained, because the printed articles as they went to that committee are in the hands of each member, and I presume that each member will read for himself as the clerk reads the whole Constitution as it is presented for final adjustment.

Mr. WHITNEY. If that means the adoption of the rule, I desire to move for another slight amendment before the rule is adopted.

Mr. VARIAN. Yes, it does mean that.

Mr. WHITNEY. I merely wish to suggest that the correct name of the committee is "engrossment and enrollment."

Mr. DRIVER. Mr. President, may I be excused?

The PRESIDENT. Yes.

I would call the attention of the gentlemen again to the desire of these photographers that you made an agreement with to meet at three o'clock, and it is now four.

Mr. RICKS. Mr. President, if we agreed to meet those photographers, I move we take a recess for ten minutes and go down and meet them.

The motion for a recess being put it was carried by a rising vote of 55 ayes to 36 noes.

The Convention then took a recess for ten minutes.

The Convention re-assembled after recess and the following proceedings were had:

Messrs. Low of Cache, and Farr, were excused.

The consideration of the special order was resumed.

The secretary then read rule twenty-three.

Mr. VARIAN. I move its adoption.

The PRESIDENT. If there is no objection the rule will be adopted.

The secretary then read rule twenty-four.

Mr. VARIAN. I move its adoption.

The PRESIDENT. If there is no objection the rule will be adopted as read.

The secretary then read rule twenty-five.

Mr. VARIAN. I move its adoption.

The PRESIDENT. If there is no objection the rule will be adopted.

The secretary then read rule twenty-six.

Mr. VARIAN. I move its adoption.

The PRESIDENT. If there is no objection the rule will be adopted.

The secretary then read rule twenty-seven.

Mr. VARIAN. I move its adoption.

The PRESIDENT. If there is no objection the rule will be adopted.

The secretary then read rule twenty-eight.

Mr. VARIAN. I move its adoption.

The PRESIDENT. If there is no objection the rule will be adopted.

The secretary then read rule twenty-nine.

Mr. VARIAN. I move its adoption.

The PRESIDENT. It will be adopted as read if there is no objection.

The secretary then read rule thirty.

Mr. VARIAN. I move its adoption.

The PRESIDENT. If there is no objection, gentlemen, the rule will be adopted as read.

The secretary then read rule thirty-one.

Mr. VARIAN. I move its adoption.

The PRESIDENT. If there is no objection, the rule will be adopted.

The secretary then read rule thirty-two.

Mr. VARIAN. I move its adoption.

Mr. WELLS. Mr. President, I would like to ask the chairman why that is five days before the final adjournment?

Mr. VARIAN. The rule is provided for the purpose of directing the attention of the Convention to the matter in order that it may direct the attention of the committee to the duty of engrossing and enrolling the Constitution. The operation of this rule requires some future action. I presume it is inserted in the rules of these conventions in order that the attention of the convention may be called to it.

The PRESIDENT. The rule will be adopted as read if there are no objections.

Mr. WELLS. I don't understand what the Convention will be doing for five days after that has been done.

Mr. THURMAN. We will be getting our photographs taken.

The PRESIDENT. Does this gentleman object to the rule?

Mr. WELLS. No, I have no amendment to offer.

The PRESIDENT. The rule will be adopted as read.

The secretary then read rule thirty-three.

Mr. VARIAN. I move its adoption.

The PRESIDENT. If there is no objection the rule will be adopted as read.

The secretary then read rule thirty-four as follows:

RULE XXXIV. The following classes of persons besides officers and members of the Convention shall be entitled to admission to the floor of the Convention during the session thereof, viz:

1. The governors, secretaries, auditor, treasurer and ex-governors.

2. The justices of the supreme court and ex-justices thereof.

3. The delegate to Congress and ex-delegates.

4. Members of the Utah commission.

5. Reporters of the press, as provided by these rules.

6. Ladies.

No other person shall be admitted to the floor during the session of the Convention unless the Convention shall otherwise order.

Mr. VARIAN. Mr. President, the committee on rules overlooked one courtesy in that rule. I move to insert a new subdivision, after sixth as follows: "The probate judge and members of the county court of Salt Lake County." These are the gentlemen as a body who have given the use of this hall to this Convention. It would seem appropriate that we should recognize it in this way.

The PRESIDENT. Mr. Varian, would you include the mayor of Salt Lake City?

Mr. EVANS (Weber). Mr. President, I move to amend that by adding the mayor of Salt Lake City.

Mr. VARIAN. I accept it.

Mr. EVANS (Weber). And that it be inserted as subdivision five and that subdivisions five and six be made six and seven.

Mr. KIESEL. And the city council of Salt Lake City, I wish to amend.

Mr. VARIAN. I object to that.

Mr. KIESEL. The probate judge and all the officials—I don't see why we cannot have the mayor and all the officials—

Mr. EVANS (Weber). Why not have the mayors of all incorporated cities?

Mr. VARIAN. I accept Mr. Evans' amendment, I don't accept the other.

Mr. KIESEL. Has my proposition been seconded.

The PRESIDENT. No, sir.

Mr. KIESEL. I would like to put that to a vote if it is seconded, that the

city council also have the privileges of the floor.

Motion seconded.

Mr. VARIAN. Mr. President, the committee on rules considered this matter and it was manifest to them, as it must be manifest to the Convention, that we must draw the line somewhere, owing to the limited accommodations, and we did not care to make a distinction that might be complained of, and drew the lines so closely that we overlooked a small matter of courtesy that we ought not to have overlooked, namely the county court; but for that I should have no objection myself and I presume the committee would not, to incorporating in the rules a provision admitting the city councils and mayors of all the cities in the Territory and members of the Legislature.

Mr. KIESEL. Mr. President, it is a mere matter of courtesy. Mr. Varian knows just as well as I that these gentlemen are not going to invade this room here. It is just simply a matter of courtesy and they are entitled to it. We are holding this Convention in their city here. We are under their protection. I think they are entitled to it.

Mr. EICHNOR. Mr. President, I will state to the members of this Convention that the matter was first proposed in a meeting of the city council; that Councilman O'Meara introduced a resolution that an arrangement should be made to hold the Constitutional Convention in this building, and that as the city council set the movement on foot, I think we should show them the courtesy.

The PRESIDENT. Gentlemen, you have heard the motion to amend the resolution and extend the courtesy to the city council. The original motion was to extend the courtesy to the probate judge, county court and mayor of Salt Lake City. All who are in favor of the motion of Mr. Kiesel will say aye; opposed, no.

Carried.

The rule as amended was then adopted.

The secretary then read rule thirty-five.

Mr. VARIAN. I move its adoption.

The PRESIDENT. If no objection the rule will be adopted as read.

Rule thirty-six was then read by the secretary.

The PRESIDENT. If no objection the rule will be adopted as read.

Rule thirty-seven was read by the secretary as follows:

RULE XXXVII. The standing rules of the Convention and the regular orders of business shall not be suspended or interrupted unless by a vote of two-thirds of the delegates present.

Mr. VARIAN. That rule as it stands met and does meet with my approbation. It has been suggested, however, that perhaps it is a little too stringent—that a majority of the delegates present ought to have the power to so order and direct the business as they may see fit. For the purpose of testing the sense of the Convention upon that, I move the amendment, by striking out the words, “two-thirds,” in line three and inserting “majority.”

Seconded.

Mr. EVANS (Weber). What would be the necessity of a rule at all on that question, then? That is a power that the body has.

Mr. VARIAN. Mr. President, I quite agree with that, but I thought inasmuch as I had the matter in charge and heard the gentlemen speak about it—I thought it nothing more than fair to have it brought up and acted upon.

Mr. EVANS (Weber). Mr. President, I am in favor of the rule as it stands. It is an ordinary rule enforced in all deliberative bodies, and such a rule as that would probably prevent just such a scene as we had a few moments ago, when we were in session deliberating upon the adoption of these rules—that we might adjourn for the purpose of going out and having photographs

taken. I believe the rule ought to stand. I think such disgraceful proceedings ought not to obtain in this body.

Mr. HART. Mr. President, that is the usual rule I believe for the amendment of rules of a deliberative body to require a two-thirds vote, that is the provision Mr. Roberts names. I think that is the rule required in Congress to amend the rules. Otherwise it does not amount to the dignity of rules, if a bare majority can amend them at any time. We certainly should have a two-thirds vote to change a rule.

Mr. CANNON. Mr. President, I would like to move if it is in order an amendment to the amendment by striking out the word “present” and inserting the word, “elected” so that it will read, “unless by a vote of a majority of the delegates elected.”

Mr. VARIAN. Mr. President, that is not seconded, but I want to suggest, if I may be permitted, that that would probably tie the Convention up in a more stringent way than it desires. There may occasions arise when we want to suspend the rules. It ought to be only upon occasion when the rules should be suspended. For that reason a reasonable number of delegates present are required to assent to it in order that the business may be speeded.

You may safely entrust it as a general rule from day to day to two-thirds of the delegates present in the direction of the business to act under these rules. Now, if you require two-thirds of the delegates elected—I assume nothing of that kind would come up here, but it would put it in the power of a small minority to obstruct the will of the body.

Mr. CANNON. My motion is not two-thirds of the delegates elected, but a majority of the delegates elected.

Motion seconded.

Mr. VARIAN. Mr. President, that would take from the majority of the quorum the power to act in certain

cases. Our rules contemplate that a majority of a quorum in the transaction of all ordinary business may dispose of the business before the Convention—not to pass propositions for insertion in the Constitution, but as to all other matters—ordinary resolutions concerning the business of the Convention and a disposition of any other matters, which may be in hand, are committed to the majority of the quorum. Now, it might be necessary, there being a quorum present, and not perhaps a majority of the members elected voting one way, in order to carry on the business to have certain rules here suspended. I find that this rule is one well known. It seems to be recognized everywhere. They have had it in Congress and in all constitutional conventions that I have observed the proceedings of, and it seems to be well settled in parliamentary proceedings, as well as the text books on the subject.

Mr. CANNON. Mr. President, I would say as mover of this amendment I understood Mr. Varian to say that he favored the proposition of two-thirds of the delegates present.

Mr. VARIAN. Yes.

Mr. CANNON. Two-thirds of the delegates on any occasion when we have been present, I believe would have been more than a majority of the delegates elect.

Mr. VARIAN. That might be, but there might be a case where it wouldn't be.

Mr. CANNON. I think we should not change the rule without at least a majority of those who have been elected voting upon that question in favor of a change.

Mr. VARIAN. Will the gentleman permit me to ask him a question? Do we understand this rule provides for a change of the rule? It is only for a temporary suspension. The other rules provide that a change in the rules can only be made after a reference to the committee on rules, a report from that

committee, and then it can be done. This provides only for a temporary suspension for a day.

Mr. CANNON. Mr. President, I was under a misapprehension—in that case I am in favor of the rule as it stands. Two-thirds of those present.

Mr. Varian's motion to amend was rejected.

Mr. VARIAN. I move the adoption of the rule.

The PRESIDENT. The rule will be adopted, without there is objection.

The secretary then read rule thirty-eight.

Mr. VARIAN. I move its adoption.

The PRESIDENT. If there is no objection the rule will be adopted as read.

Mr. VARIAN. Mr. President, I move that the rules as a whole as they have been amended by the Convention be adopted as the standing rules of the Convention.

Mr. JAMES. Mr. Varian, will you allow me just a moment before you put this motion? Wouldn't it be well to grant some powers to the president to fill vacancies on the committees as they occur?

Mr. VARIAN. I think it is here. He has that power.

Mr. JAMES. I haven't seen that power.

Mr. VARIAN. It is not in terms perhaps, but of course—

The PRESIDENT. It is implied.

Mr. EVANS (Weber). It gives him the power to add to any committee if there is a vacancy.

Mr. Varian's motion was seconded.

Mr. WHITNEY. Mr. President, I wish to suggest a slight amendment in rule three, if it is admissible in this stage. In the first line of rule three, order of business, I move for the insertion of the words between the words "session" and "shall," "after roll call and prayer," so that it will read, "the first business of each day's session after roll call and prayer shall be the reading of the jour-

nal," etc. I consider roll call a part of the business of the session, as much as reading the minutes.

Mr. EVANS (Weber). I second the motion.

Mr. VARIAN. Don't you mean "prayer and roll call?" Transpose that.

Mr. WHITNEY. No; I think the roll call should be first, because until the roll call, we do not know whether there is a quorum present.

Mr. VARIAN. The minority needs the prayer as much as the quorum.

Mr. CANNON. I would suggest that the prayer usually comes first.

Mr. WHITNEY. It did to-day, but I think it is out of order.

The PRESIDENT. I followed the rule of the Wyoming people in that matter.

Mr. WHITNEY. My impression is, the roll call should come first.

Mr. EVANS (Weber). Suppose we should have divine exercises and after that the roll were called and there was found not to be a quorum present, the question would be, would the prayer avail anything? [Laughter.]

The PRESIDENT. We would be that much ahead.

Mr. EVANS (Weber). I agree that we ought first to have the roll call.

The PRESIDENT. The question is on the amendment of the rule as suggested by Mr. Whitney.

The motion was carried.

The PRESIDENT. The question is on the motion of Mr. Varian to adopt the rules as a whole, with the amendments.

The motion was agreed to.

Mr. VARIAN. Mr. President, I also move the adoption of the report of the committee on rules, recommending that the sum of fourteen dollars, I think it is, be allowed and paid.

Mr. RICKS. That was passed upon.

Mr. VARIAN. No; it was not passed upon; it is in getting up these rules.

The PRESIDENT. The question is on the motion to adopt the report of

the committee, and that the sum of fourteen dollars be paid as recommended.

Carried.

Mr. VARIAN. Mr. President, I also may be out of order, but I ask leave to make a motion that should have been made on the adoption of the rules; I move that the committee on printing be instructed to have printed such number of copies as in their judgment they may think necessary.

Mr. LAMBERT. That was attended to yesterday, Mr. Varian.

Mr. VARIAN. Well, that is all right.

Mr. HART. Mr. Varian's motion a moment ago on the adoption of the report of the committee on rules, mentioned one item of recommendation only in those minutes. There are two items there, and his motion should either be made to adopt the recommendations of the committee on rules without specifying one particular matter therein, or else there should be a separate motion now on another recommendation contained in the report of the committee on rules. The last sentence, "and we further recommend that the appointment of committees heretofore made be ratified." I would suggest—

Mr. VARIAN. Make a motion.

Mr. HART. I would suggest that the clerk make your motion to read that the recommendation of the committee on rules be adopted without specifying the fourteen dollars or this other matter, and then it will cover the whole thing.

Mr. VARIAN. Now, as I understand it, consent was asked that that motion may be deemed to include the other recommendation of the committee, that the appointment by the chair of the committees as heretofore made be ratified.

The PRESIDENT. If there is no objection to the recommendation it will be so amended by the secretary.

Mr. IVINS. Will the chair please

state Mr. Varian's motion that is now before the house? Didn't you move that a certain number of copies of these—

Mr. VARIAN. I did and was informed by the chairman of the committee on printing, that that had already passed yesterday.

Mr. IVINS. Mr. President, I wish to move as an amendment to that motion that the names and addresses of the members of this Convention be included in the same pamphlet in which the rules are.

Mr. LAMBERT. I will say for your information that was all included in the resolution of yesterday.

Mr. IVINS. I was not present yesterday.

Mr. CANNON. If there is no other business, I move we now adjourn.

Carried.

The Convention then at 4:55 p. m. adjourned.

ELEVENTH DAY.

THURSDAY, March 14, 1895.

The Convention was called to order at 2 o'clock p. m. by President Smith.

The roll was called showing the following members present:

Adams	Larsen, L.
Allen	Larsen, C. P.
Anderson	Lemmon
Barnes	Lewis
Bowdle	Low, William
Boyer	Low, Peter
Brandley	Low, Cache
Button	Lund
Buys	Maeser
Call	Mackintosh
Cannon	Maloney
Chidester	Maughan
Christianson	McFarland
Clark	Miller
Coray	Morris
Corfman	Moritz
Crane	Murdock, Beaver

Creer	Murdock, Wasatch
Cunningham	Murdock, Summit
Cushing	Nebeker
Driver	Page
Eichnor	Partridge
Eldredge	Peters
Emery	Peterson, Grand
Engberg	Peterson, Sanpete
Evans, Weber	Preston
Evans, Utah	Raleigh
Farr	Ricks
Francis	Roberts
Green	Robertson
Goodwin	Robinson, Kane
Haynes	Robison, Wayne
Hammond	Ryan
Hart	Sharp
Halliday	Shurtliff
Heyborne	Snow
Howard	Spencer
Hughes	Squires
Hyde	Stover
Ivins	Strevell
James	Symons
Johnson	Thompson
Jolley	Thoreson
Kiesel	Thorne
Keith	Van Horne
Kearns	Warrum
Kerr	Wells
Kimball, Salt Lake	Whitney
Kimball, Weber	Williams
Lambert	Mr. President.

Mr. Thurman was excused.

Prayer was offered by Rev. W. D. Mabry, of the Methodist Episcopal Church.

Journal of last previous session read by the secretary and approved.

Mr. KIESEL. Mr. President, I ask for a suspension of the rules, and ask for the admission to the floor of Hon. John Watson, and Hon. Nathan Tanner, from Ogden, for this afternoon's session.

Granted by unanimous consent.

Mr. EVANS (Weber). Mr. President, Mr. Kimball, of Weber, has requested me to ask that the records show his absence yesterday on account of sickness.

and I do so; he is not well and for that reason was not present.

Mr. KIESEL. Mr. President, I ask for a suspension of the rules and also ask for the admission of Hon. Joseph Stanford, of Ogden, to the floor.

The request was granted by unanimous consent.

Mr. GIBBS. Mr. President, I wish to be recorded as present this afternoon.

Mr. HILL. I desire the same privilege.

Mr. PIERCE. I would like to be recorded present.

Mr. VARIAN. My name also.

Mr. RICHARDS. Mr. President, if it is necessary, I ask also to be recorded present. It seems to me that it ought not to be necessary for a member to make a special request to be recorded present, and have it appear on the minutes, and incur that much additional expense. It seems to me that if members coming in during the reading of the minutes, or immediately after roll call, would report their names to the secretary, that order ought to be made without its appearing on the records, and I therefore move, if it is necessary, that such be the rule of the Convention, and that this motion do not appear on the record.

Mr. KIESEL. I second that motion.
Carried.

The PRESIDENT. Gentlemen, the order of business is the presentation of petitions and memorials.

Mr. EVANS (Weber). Mr. President, I have the honor to present a memorial from the representatives of the ladies of Weber County to this Convention, asking that they might receive equal suffrage with men, and I ask the courtesy of the Convention that it might be read by the secretary at length and referred to the committee on elections and suffrage.

Mr. KIMBALL (Weber). Mr. President, I move that it be read by its title and referred without reading the whole petition.

Mr. EVANS (Weber). Mr. President, it is short—in courtesy to the ladies—

Mr. KIMBALL (Weber). Mr. President, we will have lots of these petitions here, and if we attempt to read all of them, it will take a long time—if any one will second my motion.

Motion seconded.

Mr. KIESEL. You cannot get a second to that motion; I would like to hear it read.

Mr. SQUIRES. Mr. President, in view of the fact that I understand that some of the ladies who are connected with this movement are present, I trust that out of courtesy to them, we will listen to this communication. It is not very long. I am in favor of the reading.

Mr. VARIAN. I call for the reading of it for information.

The secretary then read the memorial as follows:

OGDEN CITY, March 13, 1895.

To the Hon. President and Members of the Constitutional Convention of Utah:

GENTLEMEN: We, the undersigned delegates in behalf of the women of Ogden City, and Weber County, beg most respectfully to memorialize your honorable body and ask that the action of your committee on election and suffrage in reporting favorably on the right of suffrage and equal rights being granted to the women of Utah, be sustained, and that the article adopted by said committee be incorporated in the Constitution by the unanimous vote of the Convention.

Both political parties, in their declaration of principles last fall pledged themselves to grant full suffrage to women, and we feel assured that you will honor the pledge thus made.

Our great Creator has endowed women with the same attributes and power of mind possessed by man, hence, her right to equal privileges and opportunities under the laws and in the governments of the nation of which she is a member. Woman has been denied her rights in the past, but toward the close of the nineteenth century, her rights, her merits and worth are being better understood and appreciated, which is evidenced by the fact of the suffrage being granted her in many states of the Union as well as in many parts of Europe. And it will, beyond all question, reflect credit and honor

upon the framers of the Constitution to provide that the mother, wife and sister shall have a voice in the conduct of the affairs of the State of Utah, equal to father, husband and brother.

We claim we are loyal to the government and our country; we love and honor its flag and its Constitution. Give us an extended opportunity to demonstrate and furnish proof that our professions are sincere and true.

We claim a share and an interest in all the greatness and glory our country represents.

A few men argue, but their numbers are diminishing every year, that politics are corrupt and that women will be defiled and injured by engaging in them. Experience in Wyoming and other states does not sustain this view, but, on the contrary it is claimed that there is less drunkenness, immorality, less vice and crime, and that there are fewer criminals according to prison records, through the presence and influence of women in politics, than formerly, and that her efforts and example in the paths of sobriety and honor, tend to purify the political atmosphere, to elevate man and not to lower woman.

With these facts briefly referred to, before you, gentlemen, we feel that the most careful and scrupulous, and even the somewhat credulous, will do no violence to their feelings or any harm, but good to their state and country to grant our prayer, while we are thoroughly satisfied that the great majority of your honorable body will gladly and cheerfully do honor to the women of Utah by keeping inviolate the pledges of your respective parties.

Yours most sincerely and respectfully,

MRS. JENNIE E. NELSON,
MRS. KATE R. HILLIARD,
MRS. WM. DRIVER,
MRS. L. R. RHODES,
MRS. E. G. STANFORD.

Mr. VARIAN. Mr. President, I would like to call for the reading of the report from the committee on elections and rights of suffrage, that is referred to in that petition.

Mr. KIESEL. Mr. President, for information of Mr. Varian, I would say that the matter was referred to the subcommittee to draft and present to the Convention a report. We are not ready yet to report.

Mr. VARIAN. Mr. President, it seems then, that the action of the committee—a committee of this Convention, seems to be known in Ogden before the

Convention knows of it. It would seem that this petition is a little premature, and as it is addressed to the Convention and not to the committee, I move that it lie on the table until the report of the committee comes in.

Seconded.

Mr. KIMBALL (Weber). Mr. President, I had a motion here, to refer that to the committee on elections and rights of suffrage, by reading of the title. Mr. Varian called for the reading of it.

Mr. VARIAN. The gentleman is out of order.

The PRESIDENT. The gentleman is out of order.

Mr. RICHARDS. Mr. President, I offer as an amendment to Mr. Varian's motion, that it be referred to the committee on rights of suffrage.

Mr. EVANS (Weber). Mr. President, that was my motion. When I presented the memorial I moved that it be referred to the committee on elections and suffrage.

Mr. VARIAN. Mr. President, I arise to a point of order. That was the original motion made by Mr. Kimball. The motion is to lie on the table. If you do not want it to lie on the table, then it can be voted down and the motion will come up.

The PRESIDENT. The question is upon the motion that this petition lie upon the table.

Lost.

Mr. KIMBALL (Weber). Mr. President, I renew my motion.

Mr. EVANS (Weber). Mr. President, I renew my motion to refer that to the committee on election and rights of suffrage.

The motion of Mr. Evans was carried.

Mr. MURDOCK (Wasatch). Mr. President, I desire to introduce a petition signed by 370 members of Wasatch County, introducing an article of prohibition.

Mr. VARIAN. Mr. President, that is not the order of business, the proposi-

tion for insertion in the Constitution. The gentleman said he introduces a proposition for insertion in the Constitution.

Mr. RICHARDS. I understood him to say a petition.

Mr. MURDOCK (Wasatch). It is a petition.

The secretary then read the title to said document as follows:

Proposed article on prohibition and methods of submitting same to vote of the people.

Mr. RICKS. Mr. President, I move that it be read by its title and referred to the committee on schedule and future amendments and miscellaneous.

Mr. KIESEL. Mr. President, I amend by referring to the committee on commerce and manufacture.

Mr. VARIAN. I second that motion.

Mr. IVINS. Mr. President, I ask that the petition be read for information. I understand it is very short, I do not want the names of the signers.

Mr. EVANS (Weber). It is short, let it be read.

Mr. HART. Under our rules the reading of a petition is not in order unless ordered by the Convention as I understand it. Rule four requires a vote of the house in order to read a petition or memorial.

Mr. VARIAN. Mr. President, the reading is called for for information as I understand it. Any member has a right to that.

The PRESIDENT. That is as I understand it.

Mr. HART. I do not see how a member can call for the reading of it for information and thus avoid the operation of the general rule that has been adopted. I understand the purpose of this rule is to avoid the taking up of time in reading these petitions and memorials that may come in.

Mr. VARIAN. Mr. President, there are two motions pending to refer to separate committees. The gentleman wants it read for information. I don't see

how you can deprive him of that right. He has no right to debate it perhaps, but that is another question.

Mr. EVANS. We do not know which committee it should go to until it is read.

The secretary then read the same.

Mr. MURDOCK (Wasatch). Mr. President, I move that it be referred to the committee on schedule and future amendments and miscellaneous.

The PRESIDENT. There has been a motion for reference to the committee on manufacture and commerce, and to another committee, I don't just remember what.

Mr. MURDOCK (Wasatch). Schedule, future amendments and miscellaneous.

Mr. IVINS. Mr. President, it seems to me that the gentleman from Wasatch, Mr. Murdock, while being the introducer of this petition, having requested that it go to the committee on schedule, future amendments and miscellaneous, that it ought to go there without any further action on the part of this house.

Mr. KIMBALL (Weber). Mr. President, I arise to a point of order that that is a proposition for insertion in the Constitution, and not a petition. If the secretary will read it, the president will readily observe that it is a proposition to have inserted in the Constitution certain matter, and I object to it as out of order at this time—that it should come up on that order.

The PRESIDENT. I think the point of order is well taken—that it does not come properly as a petition under the circumstances. The gentleman may have leave to withdraw and present it in its proper place.

The committee on accounts and expenses presented a report which was read by the secretary as follows:

CONVENTION HALL, March 14, 1895.
Mr. President and Members of the Convention:

We, your committee on accounts and

expenses, beg leave to report the following:

1. In relation to furnishing the Convention with a clock, Mr. Thomas G. Webber, superintendent of the Z. C. M. I., has kindly loaned the clock now hanging in the hall, free of charge, during the session of the Convention.

2. In relation to furnishing the delegates with drawers or boxes, for the safe keeping of their books and papers, etc., we herewith attach the following bids for same.

3. A number of delegates seem to think the per diem of appointive officers, not covered by statute, as furnished the Convention on Monday too high. We would therefore ask for the sense of the Convention in regard to this matter.

4. Members of the Convention have asked us to furnish postage stamps for their use in corresponding with their constituents. We are undecided as to whether that request should not go to the committee on printing and stationery.

5. We communicated with Secretary Richards yesterday in regard to the mileage of delegates, and he informs us the mileage should be thirty cents one way, hence our report of Monday figured at twenty cents is incorrect. We attach herewith a correct report.

6. A number of delegates have requested us to pay their mileage. As we have no instructions to do so, we would ask for the wishes of the Convention regarding the matter.

7. We are undecided as to our duties and would ask the Convention if we are expected to keep a journal of the per diem of members and expenses and report the balance on hand daily.

8. We would ask for instructions in regard to the salary of appointive officers—whether their salaries commenced with the first day of the session, time of appointment or time when sworn in.

A. C. LUND,
Chairman.

SALT LAKE CITY, UTAH,
March 13th, 1895.

To the Hon. The Committee on Furniture, Constitutional Convention, city:

GENTLEMEN: We will make 106 plain, pine stained boxes, 10 inches by 15 inches and 10 inches deep, all outside measure, with hinges and tumbler locks, for \$1.65 each.

Respectfully submitted,
HENRY DINWOODEY FURNITURE CO.
H. Dinwoodey, Prest.

SALT LAKE CITY, UTAH,
March 13, 1895.

JOHN R. BARNES, ESQ.

DEAR SIR: We will furnish you 106 tin boxes 10x14x10, inches deep with lock and key, for the sum of (\$97.50) ninety-seven dollars and fifty cents.

Yours respectfully,

JAMES, SPENCER, BATEMAN & CO.

Will furnish the boxes in two days after receiving the order for same.

J. S. B. Co.

The PRESIDENT. What will you do with the report, gentlemen, there is several propositions involved in it?

Mr. VARIAN. Mr. President, I think it ought to be taken up when we have more time, to be considered later in the afternoon under the head of resolutions.

Mr. RICKS. There is no second to that motion. I move that the first proposition be read.

Mr. EVANS (Weber). Mr. President, I second the motion, that it be received and placed on file.

Mr. RICKS. Mr. President, I will amend the motion by moving that the proposition be read separately and acted on now.

Seconded.

Carried.

The PRESIDENT. The amendment is carried, the secretary will read.

The secretary then read the following:

1. In relation to furnishing the Convention with a clock, Mr. Thomas G. Webber, Supt., of the Z. C. M. I., has kindly loaned the clock now hanging in the hall, free of charge, during the session of the Convention.

Mr. KIMBALL (Weber). I move that that part of the report be adopted, [laughter] with the thanks of the Convention to Mr. Webber.

Carried.

The secretary then read as follows:

2. In relation to furnishing the delegates with drawers or boxes for the safe keeping of their books, papers, etc., we herewith attach the following bids for same.

Mr. RICKS. Mr. President, I move we instruct the committee that we do not want those drawers—I move that

we lay that part of the report on the table.

Seconded.

Mr. LUND. Mr. President—

The PRESIDENT. It is not debatable.

Mr. IVINS. Mr. President, I arise for information, or rather to a point of order. The gentleman, I understand, moved that this report be read by sections, and passed on. Now the clerk begins to read one of the sections, and he gets up and objects to them being read.

Mr. RICKS. No, to lay it on the table.

Mr. IVINS. Hadn't we better hear it read first, so we will know what we are laying on the table?

Mr. BOYER. I call for the reading.

The secretary then read as follows:

SALT LAKE CITY, UTAH,
March 13, 1895.

J. R. BARNES, ESQ.

DEAR SIR: We will furnish you 106 tin boxes, 10x14x10 inches deep, with lock and key for the same, for ninety-seven dollars and fifty cents (\$97.50).

Yours truly,

JAMES, SPENCER, BATEMAN & Co.,
Will furnish the boxes in two days after receiving the order for same.

J. S. B. Co.

Mr. VARIAN. Question. Mr. President, the question is on this part of the report lying on the table.

Mr. EVANS (Weber). Mr. President, I now move that we reject that part of the report.

Mr. VARIAN. I arise to a point of order; a motion to lie on the table cannot be disposed of in that way.

The PRESIDENT. You have heard the motion, gentlemen, that this part of the report lie upon the table.

Carried.

The PRESIDENT. The secretary will continue to read.

Mr. VARIAN. I arise to a point of order. The whole report is on the table now. It is so inseparably connected with the subject matter that it carries the whole report with it on the table.

Mr. KIMBALL (Weber). I beg leave to differ with the gentleman, there are several sections to that report on different subject matters.

The PRESIDENT. Will Mr. Varian point to the rule in regard to this matter?

Mr. KIMBALL (Weber). It is not one subject matter, but it is several subject matters.

Mr. VARIAN. I have not the rules at hand, nor have I got Roberts' rules of order; there is no question about it.

Mr. EVANS (Weber). Mr. President, I now move that the report of the committee on printing be taken from the table for action.

Mr. VARIAN. Mr. President, I arise to two points of order, the first is, the president has not decided this question before the house, and second that a motion to lay upon the table being made, which has been decided and no other business intervening, the only way it can be rectified is by some person who voted for it with the majority, to move to reconsider the vote.

Mr. KIMBALL (Weber). I understand the president has decided the last motion, that there are several subject matters in one report and that it cannot be disposed of in that way.

Mr. HOWARD. Mr. President, I understood when that motion was put that it meant that one portion of the report referred to, and no other part, and I vote in the affirmative that that be laid on the table—that portion of the report. I now move that the report be taken from the table and considered.

Mr. LUND. Mr. President, in this particular section which we moved to dispose of there is one bid which has not been read yet, consequently, I say that it cannot be laid on the table.

Mr. PIERCE. Mr. President, I would like to make a remark or two on this question. Referring to Roberts' rules of order, page 51; on the subject of a motion to lay on the table; it removed the subject from consideration until the

assembly voted to take it from the table. The subject under consideration is the tin boxes, and when we voted to lay this matter on the table——

Mr. VARIAN. I arise to a point of order; this is not debatable unless upon an appeal from the ruling of the chair.

Mr. PIERCE. The chair has not ruled upon it at all.

Mr. VARIAN. I say it is not debatable; no other gentleman is entitled to the floor but myself, and I only to make the point of order.

Mr. PIERCE. Mr. President, I arise to the question of personal privilege.

Mr. VARIAN. Mr. President, I ask that my point of order be ruled upon.

Mr. PIERCE. Mr. President, I arise to a question of personal privilege.

The PRESIDENT. State the point of order.

Mr. VARIAN. I have made and do now make a point of order which has not yet been ruled upon. The question is before the house. It is not debatable by any other gentleman either to rise to a question of privilege or to make any motion concerning it. When the chair shall rule upon it, then, if there be an appeal taken, every gentleman upon this floor has an opportunity to debate the question. Certainly they cannot inject the privilege to argue the matter.

Mr. PIERCE. Mr. President, I arise to a question of personal privilege, and call your attention to Roberts' rules of order on this question.

The PRESIDENT. The chair is of the opinion that the point of order was not well taken.

Mr. PIERCE. Mr. President, I would like to call the chair's attention to this question.

The PRESIDENT. There is nothing before the house, Mr. Pierce, at all.

Mr. EVANS (Weber). My motion is before the house to take this from the table.

The PRESIDENT. Gentlemen, you have heard the motion that this report

of the committee be taken from the table.

Carried.

The secretary then read as follows:

SALT LAKE CITY, UTAH,
March 13, 1895.

To the Hon. Committee on Furniture,
Constitutional Convention, city:

GENTLEMEN: We will make 106 plain, pine stained boxes ten inches by fifteen inches and ten inches deep, all outside measure, with hinges and tumbler locks, for \$1.65 each.

Respectfully submitted,
HENRY DINWOODEY FURNITURE Co.,
Henry Dinwoodey, Prest.

Mr. ELDREDGE. Mr. President, I move that we lay that subdivision of that report upon the table.

Mr. BUTTON. Mr. President, I move we reject that part of the proposition.

Seconded.

Mr. EVANS (Utah). Mr. President, I move as an amendment that we reject both of those last subdivisions.

The PRESIDENT. The question is on Mr. Button's amendment.

Mr. BUTTON. It applies to the proposition of the two lockers, the tin and the wood.

Carried.

The PRESIDENT. The question is on the motion to reject section two of the committee's report.

Carried.

The secretary then read section three of the report.

The PRESIDENT. Has the Convention any instructions to give the committee on this point?

Mr. SQUIRES. Mr. President, we have not had the whole of this read in relation to that. A little further on the committee reports a further matter that they were too low on mileage by ten cents a mile.

The SECRETARY. This has reference to appointive officers; that refers to mileage of members.

Mr. EVANS (Utah). Mr. President, I would ask that that part of the former report be read and state the per diem suggested.

Mr. KIMBALL (Weber). Mr. President, I move that that part of the report be referred to the committee on expenditures, if we have such a committee; that, as I understand it, refers to officers other than those provided by statute.

Mr. LUND. Mr. President, the first report that we submitted to the Convention, was to show approximately what we were consuming of the funds daily, and we put the price of the payment at four dollars for the messengers. It is not covered by statute.

The PRESIDENT. The report is here, it can be read.

Mr. LUND. Mr. President, those officers that are appointive—we cannot say how much they will have without the sense of the Convention. As it requires accuracy I would like to know as the keeper of the accounts how that shall be.

The PRESIDENT. The question is on the fixing of the salary of these parties so that the committee can perform its work understandingly.

Mr. RICKS. Mr. President, I would move that this report be referred back to that committee with instructions to make some recommendation in regard to the salaries of the officers of the Convention, so that we will know what to do.

Mr. KIMBALL (Weber). Mr. President, unless that comes by way of amendment—

The PRESIDENT. Mr. Kimball's motion was not seconded.

Mr. SQUIRES. Mr. President, the committee making this report wants the report to come back. Mr. Ricks moved the same thing. Both motions are identical.

The PRESIDENT. It is moved and seconded that this report be recommended.

Mr. CANNON. I trust that this motion will not prevail; I think we are taking up too much time. It will be brought back into the Convention and

we will discuss it again. I think it can be settled in two or three minutes; there are only two officers, I believe, and I think the Convention ought to fix the price now, and not refer it back. I am opposed to that motion.

The PRESIDENT. Gentlemen, you have heard the motion to commit.

The motion was lost.

Mr. SQUIRES. Mr. President, I now move you that the salaries of the officers of the Convention be as reported by the committee in its former report.

Seconded.

Mr. EVANS (Weber). Let's hear the report.

Mr. IVINS. Mr. President, before we vote on that, let's know what those salaries are—I call for the reading of that part of the report that refers to the salaries of officers not provided by statute.

The secretary then read the following:

Officers' salaries per day—

Secretary, P. P. Christensen.....	\$ 6.00
Assistant secretary, C. S. Rapp,	5.00
Sergeant-at-arms, R. Clawson...	5.00
Watchman, Bruce Johnson	4.00
Janitor, J. M. Scott.....	4.00
Messenger, L. C. Camp.....	4.00
Messenger, J. H. Thorne.....	4.00
Enrolling and engrossing clerk, J. A. Smith	5.00
Chief messenger, T. S. Watson,	4.00
Official stenographer	30.00

Mr. RICKS. Mr. President, which officers is it that we are considering here?

The PRESIDENT. We were to consider the officers that no provision had been made for payment of in the appropriation.

Mr. RICKS. Mr. President, how are we any wiser now than we were before?

Mr. LOW (Cache). Mr. President, I move as an amendment of the motion of the gentleman from Salt Lake—I think—that the salaries be paid to messengers Camp and Thorne read \$2.50 instead of \$4.00.

Seconded.

Mr. LUND. Mr. President, we thought that matter over at some length, and

while we didn't want to get the approximate too low per day, we placed it at \$4.00. I think they have enough work to warrant the payment of \$3.00 per day, and I move to amend the motion last made and insert \$3.00 per day.

Seconded.

Mr. SQUIRES. Mr. President, I move as a still further amendment that the motion remain as stated in the first report of the committee, \$4.00.

Seconded.

Mr. VAN HORNE. Mr. President, I arise to a point of order. That would make the third motion; it is out of order.

The PRESIDENT. Gentlemen, you have heard the motion to amend the proposition of \$2.50 and that it be fixed at \$3.00 per day.

Mr. SQUIRES. What was the original motion? I call the attention of the chair to the fact that when figures are to be considered, the highest amount is first to be presented.

The PRESIDENT. Gentlemen, the question is on the motion that it shall be \$4.00 per day that will be paid to these messengers.

Lost.

The PRESIDENT. All in favor of fixing the salary at \$3.00 will say aye; contrary, no.

Carried.

Mr. THORESON. Mr. President, are there any other officers in that list whose per diem is not fixed by law?

Mr. LUND. The committee clerks.

The PRESIDENT. It seems to me there was a proposition made to refer the question of their salaries to that special committee on yesterday.

Mr. BUTTON. Mr. President, are there any others on that list that are not fixed by law except those two?

Mr. CANNON. Mr. President, I think all the others are fixed by law except the stenographer, and that was by special agreement.

Mr. RICKS. Mr. President, the sal-

ary of the minute clerk I don't think was fixed by statute.

Mr. BARNES. Mr. President, I will say in regard to the minute clerk, that Secretary Richards informed me that his salary should be \$5.00 per day.

The PRESIDENT. Is there an appropriation for that?

Mr. BARNES. No, sir—that the Legislature paid their minute clerks \$5.00 per day and it is supposed that we were to be governed by the same rules.

Mr. KIMBALL (Weber). Mr. President, I move that the report of the committee fixing the salary of the assistant secretary, or minute clerk, at \$5.00 per day be adopted.

Seconded.

Mr. THORESON. I think that motion is out of order; this is all fixed by statute and incorporated in the Enabling Act.

The PRESIDENT. That is correct; it is already fixed by statute as far as the Legislature is concerned.

Mr. KIMBALL (Weber). Mr. President, this is not fixed by statute as far as the Legislature is concerned. It is for each session of the Legislature. The minute clerk is payable out of the territorial fund, while the chief clerk is payable out of the United States fund. Now, I renew my motion to fix the salary of the minute clerk or assistant secretary at \$5.00 per day.

Seconded.

Mr. LOW (Cache). I believe that this question has been disposed of according to the motion that was first made, that the report of salaries made by the committee on expenses and accounts be adopted, and it was amended, and when that report was amended it included the original motion as I understood it, and it was all adopted.

Mr. BARNES. Mr. President, if the adoption of the resolution or motion by Mr. Kimball of Ogden prevails, that will do away with any difficulties in the matter.

Mr. EVANS (Utah). Mr. President,

the minute clerk, as I understand it, is not fixed by the act of Congress, with respect to the clerkships in the Legislature. This Convention is created by the Enabling Act, and they are entitled to the same officers that the Legislature of the Territory is entitled to. Now, by what right and authority does this Convention create an office not authorized by law?

Mr. KIMBALL (Weber). Mr. President, I will state that after conferring with Mr. Richards we are informed that they will pay any officers that we deem necessary to have.

Mr. EVANS (Weber). Who gives that authority?

Mr. KIMBALL (Weber). The secretary of the Territory, he is all the authority we have.

Mr. EVANS (Weber). If Uncle Sam will pay this clerk we will be very glad to have him. We might vote to have him any way, and let the clerk look out for it hereafter.

Mr. SQUIRES. Mr. President, for information of the gentleman from Weber County, I will say that the secretary of the Territory telegraphed to Washington on that point and as a result of the instructions he received, the next morning he suggested the appointment of these officers.

The motion to fix salary of minute clerk at \$5.00 per day was agreed to.

Mr. LUND. Mr. President, while we are considering the appointive officers, there are now two committee clerks whose wages are not fixed per day.

Mr. CANNON. Mr. President, I move that the matter of committee clerks be referred to the committee on expenses with power to act, for the reason that the committee clerks might differ in their ability. I think that that ought to be left to that committee to decide later on.

Mr. LUND. Mr. President, I hope that will receive no second, I think we can decide it here. I make a motion

that the committee clerks be paid at the rate of \$4.50 per day.

Seconded.

Mr. BOYER. Mr. President, I move to amend by making the payment \$4.00 per day.

Seconded.

Mr. LUND. Mr. President, these committee clerks who are able to use the typewriter perfectly well, I consider are worth more to us than a janitor, and I hope that they will be paid at the rate of \$4.50 per day.

Mr. CANNON. Mr. President, I move an amendment to the amendment that the price be fixed at \$5.00 per day.

Seconded.

Mr. CANNON. Mr. President, I think we have fixed the salary of several members or several clerks at \$5.00 per day. I think these ladies are entitled to as much compensation. I think when a lady performs the same work or equal work, she should receive the same pay as any man.

The PRESIDENT. The question is first on the motion to fix the salary of these committee clerks at \$5.00 per day.

Carried.

The PRESIDENT. The secretary will proceed with the balance of the report.

The secretary then read section four of the report, as follows:

Members of the Convention have asked us to furnish postage stamps for their use in corresponding with their constituents; we are undecided as to whether the request should not go to the committee on printing and stationery.

Mr. PARTRIDGE. Mr. President, I move that we reject that part of the report, and every man be required to pay his own individual postage.

Seconded.

Mr. JAMES. Mr. President, I arise to amend by providing that the chairmen of the committees have the privilege of asking for postage stamps when they need them, and that the committee on expenses and accounts furnish them. I have now a bill of \$2.00 for postage

stamps. Of course if this Convention won't pay it I will pay it myself.

Mr. KIESEL. The gentleman is out of order.

Mr. PARTRIDGE. Mr. President, while I am willing that postage stamps be furnished for the necessary business of the Convention, I am opposed to the public furnishing them for private correspondence.

Mr. CANNON. Mr. President, I would like to move as an amendment to the amendment that the sergeant-at-arms be instructed to furnish to members applying such postage as they may need for business connected with the Constitutional Convention.

Mr. KIMBALL (Weber). Mr. President, I would like to ask the gentleman one question—where the sergeant-at-arms is going to get the money?

Mr. CANNON. If we authorize it the Convention will be responsible for it.

The PRESIDENT. The question is on the motion to reject this part of the report in regard to postage.

The motion to reject was agreed to.

The secretary then read section five of the report as follows:

We communicated with Secretary Richards yesterday with regard to mileage of delegates, and he informs us that the mileage should be thirty cents one way, hence our report of Monday figured at twenty cents is incorrect. We attach herewith a correct report.

Mr. KIMBALL (Weber). I move that that part of the report be rejected, that it is a matter between the secretary of the Territory and the members of the Convention as to what it pays for mileage, and what it pays per diem. The United States statute provides it.

Mr. EVANS (Weber). Mr. President, I move as an amendment to that, that that part of the report lie on the table. That is a matter between the United States and the members.

Mr. KIMBALL (Weber). I will accept the amendment.

Mr. EVANS (Weber). We should not

reject it; that might indicate that we didn't want it.

Mr. KIMBALL (Weber). I accept the amendment.

Mr. LUND. Mr. President, I would like to ask if this is a matter that is left between the secretary or between the United States and the members of this Convention—if we can change it. The law says thirty cents.

Mr. KIESEL. You cannot change it.

Mr. EVANS (Weber). Mr. President, I move to just simply lay that part of the report on the table.

Mr. HART. I understood the president to rule a while ago, that a motion to table a part of a report carries the whole report. I think the better way would be now to move to accept this. That does not adopt it or take any action on it, other than to accept it.

Mr. SQUIRES. I call the gentleman's attention to the fact that the president ruled that the point of order raised by Mr. Varian was not well taken.

Mr. BUTTON. Mr. President, is this a motion or an amendment to a motion?

The PRESIDENT. It is moved by Mr. Kimball that this part of the report, lie on the table.

[Calls for the question.]

Mr. HART. Mr. President, I ask for information as to what the ruling of the president was as to the point of order of Mr. Varian.

The PRESIDENT. The ruling of the chair was, that a part could be laid on the table.

Mr. BUTTON. Mr. President I want to know for information if we have got a bill with the United States—inasmuch as some of these people would like to have their money, if we hadn't just as well commence and find out what we have to do. If we are going to get this mileage, we might just as well collect it.

Mr. KIMBALL (Weber). All you have got to do is to go to the secretary and get it.

Mr. EVANS (Weber). To remedy this difficulty, I withdraw my motion by

consent of my second, to lay this on the table, and now move that that part of the report be received for information and passed.

Mr. EVANS (Utah). Mr. President, I move as an amendment that that part of the report be referred back to the committee with power to ascertain and settle it.

Mr. CUSHING. Mr. President, there are a number of delegates here who have asked us to pay their mileage. Now, if this matter is laid on the table, it will be impossible for us to perform that duty.

Mr. KIESEL. Mr. President, I move as a substitute that the secretary be requested to pay the members their per diem and the mileage.

The PRESIDENT. That is out of order.

Mr. BARNES. Mr. President, I would like to ask a question, if it is not out of order, as a member of that committee, I would like to know whether that committee has anything further to do with the mileage of members—that is, the committee on accounts and expenses; it strikes me it is a matter between the members and the secretary of the Territory, and that that committee has nothing whatever to do with it.

The PRESIDENT. The question is on the motion of Mr. Evans, that we accept that part of the report and pass it.

Carried.

Mr. BARNES. Mr. President, if I could get my questions answered I would like it as a member of that committee. I do not think we have anything further to do with the mileage of the members.

The PRESIDENT. I don't think you have.

Mr. BARNES. I would like to know if you ruled we have not—that ends it.

Mr. WELLS. Mr. President, I move that they have not.

Mr. KIMBALL (Weber). I second the motion.

Carried.

Mr. LUND. We have nothing then to do with the mileage of these members?

The PRESIDENT. No.

The secretary then read section seven of the report as follows:

We are undecided as to our duties and would ask the Convention if we are expected to keep a journal of the per diem of members and expenses, and report the balance on hand daily.

Mr. LUND. Mr. Chairman, we want to know if you expect from us a daily balance so that you will know exactly what is left, or a weekly balance, or what accounts we are to keep.

Mr. VAN HORNE. I move you that this section of the report of the committee on accounts and expenses be referred back to the committee with instructions to keep a journal of the expenses and accounts, showing the daily balance of funds on hand.

Seconded.

Mr. CREER. Mr. President, I make an amendment to the gentleman's motion, "and report when called for by the Convention."

Mr. VAN HORNE. Very well, I accept the amendment.

Carried.

The secretary then read section eight of the report as follows:

We would ask for instructions in regard to the salary of appointive officers—whether their salaries commence with the first day of the session, time of appointment or when sworn in.

Mr. VAN HORNE. Mr. President, I move you that it be declared the sense of this Convention, that the salary of appointive officers begin from the time they are sworn in.

Seconded.

Mr. EICHNOR. Mr. President, I wish to offer this amendment, that their salaries begin from the time of their employment.

Seconded.

Mr. LUND. Mr. President, I would ask for information then—when their

employment commences. Some of them worked quite a long time before the Convention met here in order to get these different places.

The PRESIDENT. Will the gentleman in his motion fix upon a time?

Mr. EICHNOR. Mr. President, for the benefit of the gentleman from Sanpete County, I will state my idea is that their salaries should commence from the time they commenced work in this Constitutional Convention.

Mr. VAN HORNE. Mr. President, the reason I made the motion in the way I did was, I doubt the authority of this Convention to order an expenditure of this money as a salary to an appointive officer, when the journal says that that officer was not an officer of this Convention at the time the salary was voted for, or for a part of the time the salary was voted for.

Mr. SQUIRES. Mr. President, so far as that is concerned we have already taken an action to the contrary. We have made a contract with Mr. McGur-rin dating from the first day of the Convention, and it was a long ways after the opening of the Convention before the contract was closed.

Mr. CANNON. Question on the amendment.

Mr. EICHNOR. My amendment is that the salaries of the appointive officers shall begin from the time of their employment in this Constitutional Convention.

Mr. EVANS (Weber). Mr. President, I desire to speak on that just a moment. I think that is a very proper motion to prevail here. I am informed that two of the committee clerks whom we elected the other day have been actively engaged at work in the committees, and have not yet been sworn in. Now it is not right that they should not be compensated for that work actually done.

Mr. LUND. Mr. President, I offer an amendment to the amendment, which shall say that Mr. McGur-rin and the

two committee clerks commenced service on the first day, and that the others be paid from and including the days when they were sworn in.

Seconded.

Mr. EICHNOR. Mr. President, I hope that this Constitutional Convention will not ask any person to work without pay. I believe in fixing salaries. I believe in hiring people and paying them for their work. If persons employed here are not sworn in the same day why should they not receive pay for that day? Let us deal as fairly in this Constitutional Convention as in private life.

Mr. SQUIRES. Will the gentleman from Salt Lake indicate what clerks there are who have worked here without being sworn except the committee clerks and Mr. McGur-rin?

Mr. EICHNOR. Mr. President, the janitor of Salt Lake county was working here I think for nearly a week, the watchman was working here. I think for several days before he was sworn in. I do not know with regard to the minute clerk, whether he was here before or not.

Mr. JAMES. Mr. President, I move as a substitute to the whole of these motions, that the matter be referred to the committee on accounts and expenses to report to this Convention when the labor of each employe begins, and when they are entitled to be paid.

Mr. KIMBALL (Weber). Mr. President, I didn't hear any second to that gentleman's motion, and I move now, as a substitute to all the motions, that each employe of this Convention be paid from the first day.

Seconded.

Mr. RICKS. Mr. President, I oppose that motion for this reason—

Mr. IVINS. Mr. President, I arise to a point or order, before there is any discussion on that motion. It is out of order. This motion that is now before the house, has been amended twice. It

cannot be amended again either by substitute or by amendment. A substitute might have prevailed as an amendment but after it has been amended and then there has been an amendment to an amendment, any other motion is out of order.

Mr. LUND. Mr. President, with the permission of my second, I will withdraw the amendment to the amendment.

Mr. KIMBALL (Weber). Then Mr. President, I renew my motion as a substitute, that all employes be paid from the first day of the session of the Convention.

Seconded.

Mr. RICKS. Mr. President, I am opposed to that motion for this reason. As I understand it, we have been in session here about six days, without the committee clerks. Now, I don't think it is just right to go back and pay those committee clerks for service they have not rendered. Mr. McGurrian, I understand, has been employed here from the first day. I think he ought to receive his compensation from the first day, so I do for every member that has been employed, but I am not in favor of paying those who have not been employed.

Mr. CANNON. I call for the previous question.

The previous question was ordered.

The PRESIDENT. The question is on the substitute of Mr. Kimball that the employes of the Convention be paid from the commencement.

Lost.

The PRESIDENT. It recurs on the amendment of Mr. Eichnor.

Carried.

The PRESIDENT. This finishes the report, gentlemen.

Mr. PARTRIDGE. Mr. President, I would like to ask this for my information, if that motion that has just carried, means from the time of their employment, if they were employed

before the Convention met, or since the Convention did meet?

Mr. EVANS (Weber). Employed by the Convention.

Mr. JOLLEY. Mr. President, is it not a fact that there should be some arrangement or rules made by the general Convention in relation to the mileage before they will be enabled to get their mileage?

Mr. SQUIRES. Mr. President, I think it is due to answer the question that was just asked about work done previous to the Convention. That is a more important matter than the gentleman may consider it. There was a proposition made to us by the county court—

Mr. KIMBALL (Weber). I submit there is nothing before the house.

Mr. SQUIRES (continuing)—in which they specify that they should be at no charge for arranging this room. They had the man employed here on that business before the session of the Convention. I move that that matter be referred to the committee on accounts and expenses for investigation and report to the Convention.

Mr. EVANS (Weber). Mr. President, I move that the regular order be proceeded with; I arise to a point of order now.

The PRESIDENT. The point is well taken.

Any further committee reports?

Mr. CANNON. Mr. President, I have here file number 9, referred to the committee on revenue, taxation and public debt, relating to salaries and fees. I think it was improperly referred and I return it to the secretary and move that it be referred to the committee on salaries of public officers.

The PRESIDENT. If there is no objection, it will go to the committee named.

Any further reports of committees?

Any reports of select committees?

Introduction of ordinance and propositions for insertion in the Constitution.

Mr. STREVELL. Mr. President, I desire to offer two propositions. An article, hours of labor (file No. 36), and a proposition regulating elections (file No. 37).

Proposition concerning hours of labor was read a first and second time by its title.

The PRESIDENT. It will go to the proper committee, if there is no objection.

Mr. SQUIRES. Mr. President, it should be read the first time at length unless the rules are suspended.

Mr. VAN HORNE. Mr. President, I move that the rules be suspended, and that it be read the first and second times by its title and referred to the proper committee.

Mr. RICHARDS. Before that motion is put, I will ask the gentleman to make that apply to all propositions offered to-day, unless otherwise ordered.

Mr. VAN HORNE. Very well.
Carried.

The proposition concerning hours of labor (file No. 36), offered by Mr. Strevel, after being read a first and second time by its title, was referred to the committee on labor and arbitration.

Mr. Strevel introduced a proposition relating to the regulation of elections (file No. 37), which was read a first and second time by its title and referred to committee on elections and right of suffrage.

Mr. Ryan, of Juab, introduced a proposition authorizing the Legislature to classify and fix salaries of public officers (file No. 38), which was read a first and second time by its title.

Mr. RYAN. Refer it to the committee on legislative.

Mr. THORESON. As we have a committee on salary of public officers, I think that would be the proper committee.

The PRESIDENT. Is there some specific reason why you want this to go to the legislative committee?

Mr. RYAN. I think that is the proper

committee, for the reason that it directs the Legislature to classify counties and fix the salaries of public officers. If that system should prevail, it properly goes to the committee on legislative. If the Constitution fixes the salary, then it will properly go, I am told, to the committee on salaries of public officers. I think the committee on legislative is the proper committee.

The PRESIDENT. It will go to the legislative committee.

Mr. Ryan introduced a proposition on exemptions for the Constitution, (file No. 39), which was read a first and second time by its title.

Mr. RYAN. Mr. President, I move that it be referred to the committee on legislative.

The PRESIDENT. It will go under the rule to that committee at the gentleman's request.

Mr. Ryan introduced a proposition to limit powers of corporations and companies (file No. 40), which was read a first and second time by its title and referred to committee on corporations other than municipal.

Mr. Crane introduced a proposition relative to apportioning representatives to Congress and census (file No. 41), which was read a first and second time by its title and referred to committee on apportionment and boundaries.

Mr. Raleigh introduced a proposition on prohibition (file No. 42), which was read a first and second time by its title.

Mr. VAN HORNE. Mr. President, I move that that be referred to the committee on manufacture and commerce.

Seconded.

The SECRETARY. It is asked to be referred to the committee on schedule, future amendments and miscellaneous.

Mr. MILLER. That is the proper committee.

Mr. CANNON. Mr. President, I move as an amendment that it be referred to the committee requested by the introducer.

Seconded.

Mr. KIMBALL (Weber). Mr. President, I think that is out of order. That is the original motion.

Mr. CANNON. Mr. President, I move it as a substitute.

Mr. HART. Mr. President, I understood that Mr. Cannon moved to amend the motion of the gentleman from Salt Lake. That is certainly in order.

The PRESIDENT. The question is on the substitute of Mr. Cannon that it go to the committee on schedule, future amendments and miscellaneous.

The substitute was agreed to.

Mr. KIESEL. Division.

The PRESIDENT. Too late.

Mr. EVANS (Weber). Mr. President, I desire to introduce a proposition for insertion into the Constitution relating to the taxation of mines (file No. 49), and I ask that it might be read twice by its title and referred to the committee on revenue and taxation.

The SECRETARY. I already have four. I will read them in order as they have been presented.

The PRESIDENT. Read them in their order as they come.

Mr. Allen introduced a proposition relative to changing county lines and creating new counties and removing county seats (file No. 43), which was read a first and second time by its title.

Mr. VAN HORNE. I move that it be referred to the committee on municipal corporations.

Seconded.

Mr. EICHNOR. It needs no motion.

Mr. KIMBALL (Weber). I suggest that it is a proper committee anyway without a motion.

The PRESIDENT. That is all right.

Mr. THORESON. Mr. President, I would like to ask if there are references to the constitutions from which they are taken?

Mr. EICHNOR. Mr. President, I would suggest that some of them are so old they need no references.

Mr. Howard introduced a proposition for insertion in the Constitution relative to irrigation and use of water (file No. 44), which was read a first and second time by its title and referred to the committee on water rights and irrigation.

Mr. IVINS. Mr. President, it is a little late, but I ask unanimous consent of the house to arise at this stage to a point of order. When the last motion was put, a viya voce vote was had and the chair announced the result. Mr. Kiesel asked for a division; it was stated that it was too late.

Mr. KIESEL. I waive that now.

Mr. IVINS. That a division could not be had. I wish to say that the chair sustained the objection that he raised to Mr. Kiesel's calling for a division. I would like to read just a few words from Roberts' rules of order.

(Reads.)

Mr. KIESEL. Mr. President, I thought, as Mr. Ivins read here—I thought that I was right about the proposition, but I waive that now so that we do not need to discuss it.

Mr. IVINS. My object was to get this before the house for future use rather than that just transpired.

Mr. Howard introduced a proposition for insertion in the Constitution relative to regulating or affecting boards of officers charged with the duties of registering voters (file No. 45), which was read a first and second time by its title and referred to committee on elections and right of suffrage.

Mr. Crane introduced a proposition for insertion in the Constitution relative to organizing a board of arbitration between employer and employes and board of statisticians (file No. 46), which was read a first and second time by its title and referred to the committee on labor and arbitration.

Mr. Stover introduced a proposition for insertion in the Constitution relative to public funds and property, and also non-exemption from taxation (file No. 54),

which was read a first and second time by its title and referred to committee on revenue, taxation and public debt.

Mr. Stover introduced a proposition for insertion in the Constitution relative to the manufacture and sale of liquors, (file No. 47), which was read a first and second time by its title and referred to the committee on manufacture and commerce.

Mr. Low (Cache), introduced a proposition for insertion in the Constitution relative to private corporations (file No. 48), which was read a first and second time by its title and referred to committee on corporations other than municipal.

Mr. Evans, of Weber, introduced a proposition for insertion in the Constitution relative to taxation of mines (file No. 49), which was read a first and second time by its title and referred to committee on revenue, taxation and public debt.

Mr. Eichnor introduced a proposition for insertion in the Constitution relative to providing for an amendment of constitutions and calling for constitutional conventions (file No. 50), which was read a first and second time by its title and referred to committee on schedule, future amendments and miscellaneous.

Mr. Eichnor introduced a proposition for insertion in the Constitution relative to providing for a legislative department (file No. 51), which was read a first and second time by its title and referred to the legislative committee.

Mr. Murdock (Wasatch) introduced a proposition for insertion in the Constitution relative to prohibition (file No. 52), which was read a first and second time by its title and referred to committee on schedule, future amendments and miscellaneous.

Mr. KIMBALL (Weber). It is some time since, there was a proposition offered here in the shape of a petition by the ladies of Weber County that went over until this time. I call your attention to the fact that it went over to

this time, so that can be attended to now.

Mr. RICHARDS. Mr. President, my recollection is; that that communication was referred to the committee on elections and right of suffrage.

Mr. KIMBALL (Weber). You are mistaken; I raised the point of order myself, and it went over on the point of order until this time.

Mr. EVANS (Weber). With respect to the matter of prohibition, not the question of suffrage; that memorial was referred to the committee on election and right of suffrage.

Mr. Stover introduced a proposition for insertion in the Constitution (file No. 53), relative to inspection of public institutions, which was read a first and second time by its title and referred to committee on corporations other than municipal.

Mr. Varian introduced a proposition for insertion in the Constitution relative to the community system (file No. 55), which was read a first and second time by its title and referred to the committee on legislative.

Mr. Varian introduced a proposition for insertion in the Constitution relative to the taxation of mines (file No. 56), which was read a first and second time by its title and referred to committee on revenue, taxation and public debt.

Mr. Warrum offered a proposition for insertion in the Constitution relative to the judiciary (file No. 57), which was read a first and second time by its title and referred to the committee on judiciary.

Mr. Warrum introduced a proposition for insertion in the Constitution relative to public lands (file No. 58), which was read a first and second time by its title and referred to the committee on public lands.

Mr. Warrum introduced a proposition for insertion in the Constitution relative to finance and State debt (file No. 59), which was read a first and second time

by its title and referred to committee on revenue, taxation and public debt.

Mr. Pierce introduced a proposition for insertion in the Constitution relative to a system of education (file No. 60), which was read a first and second time by its title and referred to committee on education and school land.

Mr. Kiesel offered the following resolution:

Resolved, that the Hon. Secretary of the Territory be requested to pay members of this Constitutional Convention their per diem and mileage, when requested; provided, he has the authority to do so.

Mr. IVINS. Mr. President, there being no motion in regard to the disposition of that resolution, I wish to say that my attention has been called to the fact that the committee clerks which have been appointed to serve the different committees of this Convention need typewriting machines, and no provision has been made for procuring them; therefore, that this matter might be properly brought before the Convention, I now move that the committee clerks be authorized to procure the use of two typewriting machines upon the best terms obtainable, to be used in this Convention.

Seconded.

Mr. EICHNOR. Wasn't Mr. Kiesel's motion seconded?

Mr. KIESEL. Mr. President, I move to adopt the resolution.

Seconded.

Mr. IVINS. Mr. President, I maintain that this motion is entirely out of order.

The PRESIDENT. The motion before the house is Mr. Ivins' motion in regard to the typewriting machines.

Mr. SQUIRES. Mr. President, I understand that these machines shall be hired, not purchased.

The PRESIDENT. Yes, sir.

Mr. IVINS. They are to be obtained as I stated on the best terms obtainable; I expect we will have to pay

something for them; I understand the rental will be small.

The PRESIDENT. You have heard Mr. Ivins' motion.

Mr. MORRIS. Mr. President, I will furnish one machine without any pay.

Mr. EVANS (Weber). Mr. President, if Mr. Morris tenders one free of charge, I move that in the motion we tender him our thanks.

Accepted.

The PRESIDENT. Gentlemen, you have heard the motion. When you vote aye, please include that part of it.

The motion was agreed to.

Mr. KIESEL. Mr. President, I renew my resolution. I offer this resolution in the interest of some members that would like to have a little ready cash, and it is simply a request to ask the secretary if he can do so, to comply with it. Of course, I do not know how far his power goes in the premises. We can certainly, as a Convention, request it if it is in his power, and I move to adopt the resolution.

Seconded.

Mr. LOW (Cache). Mr. President, I wish to offer an explanation of this matter. I spoke personally to the secretary of the Territory about the matter, and he said that the means were not available at present, but as soon as they were, he would notify the delegates and the Convention. Furthermore, he would send them instructions how to proceed to obtain their mileage. He has not yet sent it, but I presume he will.

The PRESIDENT. There is no necessity of encumbering our record with this after this explanation.

Mr. KIESEL. I will withdraw the resolution.

Mr. WELLS. Mr. President, I move that there be another committee clerk employed. We have not been able to get one for our committee on preamble and declaration of rights. Each time when we have sent for one, she has been engaged, and I recommend the ap-

pointment. I nominate for the position of committee clerk, Miss Charlotte Reese.

Mr. EVANS (Weber). We have not the sense of the Convention yet, whether we will have another.

Mr. CANNON. Mr. President, it was before decided that we should employ three committee clerks. The time when we should nominate them was the only thing omitted. The clerks were named the other day, and I think Mr. Wells' motion is entirely in order.

Mr. CRANE. Mr. President, I understood that these committee clerks—the next one to be appointed or elected must be a stenographer.

Mr. WELLS. Mr. President, I cannot answer the question, but we do not need a stenographer so much as a typewriter.

Mr. CRANE. Mr. President, I take pleasure in placing in nomination Miss Emma Madison. She is quite an accomplished young woman and a good stenographer.

Mr. EVANS (Utah). Mr. President, I arise to a point of order—that we did determine upon three committee clerks at such time as we needed them, but it has not been determined whether now is the time or not. Before we can proceed any further, it must be determined whether we want them at this time or not.

Mr. WELLS. Mr. President, I move that it be determined that now is the time and now is the hour. If there ever was a time when we needed committee clerks, it is right now in formulating this Constitution.

Seconded.

Carried on a rising vote of 57 ayes and 32 noes

Mr. WELLS. Mr. President, I nominate to the position of committee clerk Miss Charlotte Reese.

Mr. CRANE. Mr. President, I place in nomination the name of Miss Emma Madison. She is a stenographer and typewriter, and I desire to say for her,

that she is the only support of a widowed mother and five little sisters who are depending entirely upon her for their support this winter.

Mr. EICHNOR. Mr. President, I desire to place in nomination Miss Florence Hartley, who is a stenographer and typewriter.

Mr. KIESEL. Mr. President, to make a little change, I nominate a gentleman this time, Mr. L. C. Johnson.

Mr. STOVER. Mr. President, I withdraw the name of Mr. Johnson. I offered his name before—a gentleman capable of taking care of twenty committees. I am opposed to having any more committee clerks at this time, and I withdraw Mr. Johnson's name.

Mr. GOODWIN. Mr. President, I wish to second the nomination of Miss Emma Madison. I know she is a fine stenographer and typewriter, has a new machine, and she is as bright as a dollar, notwithstanding she was in my employ for two years.

Mr. MURDOCK (Wasatch). Mr. President, I move the nominations be now closed.

Carried.

Mr. WELLS. Mr. President, I desire to state that the lady whom I nominated, Miss Reese, is a good stenographer. I did not make that statement at the time.

Mr. PIERCE. Mr. President, Miss Hartley is also a good stenographer, and has been a court reporter in one of the district courts in Kansas for a good many years, and never makes any mistakes, I am told.

Mr. KIMBALL (Weber). Mr. President, I move we call the roll and each man announce his choice.

The PRESIDENT. The roll will be called.

Mr. HART. Mr. President, I suggest we vote on this by a standing vote. We can do it so much quicker. I suggest that those in favor of one candidate rise up and be counted, and then the next, and so on.

Mr. EVANS (Utah). Mr. President, I would like to hear the names read.

Mr. GOODWIN. Mr. President, I second Mr. Kimball's motion.

The PRESIDENT. The motion before the house is that we proceed in the election by the calling of the roll and that each member announce his candidate.

The secretary will please call the roll.

The secretary then called the roll.

Mr. BOYER. Mr. President, not being acquainted with either of the candidates that are in nomination for the minute clerk, I desire to retain my vote and cast it with the losing party, as I am ever in the minority, seemingly.

The PRESIDENT. The privilege shall be granted the gentleman if there is no objection.

Mr. CANNON. Mr. President, I think that the Convention thus far has followed the rule of electing ladies who are present. For this reason, and hoping that my candidate will win, I vote for Miss Reese.

Mr. EVANS (Weber). Mr. President, I ask to be excused from voting, upon the ground that I believe that we already have enough committee clerks, and think it is an additional expense that is entirely unnecessary. If I am not excused, however, I will vote.

The PRESIDENT. The secretary will note the gentleman's statement.

Shall the gentleman be excused from voting?

Mr. GOODWIN. Who is the gentleman going to vote for? If he is not going to vote for my girl, I move he be excused.

Mr. LOW (Cache). Mr. President, I move he be excused.

The PRESIDENT. The gentleman is excused.

Mr. PARTRIDGE. Mr. President, if it is in order, I move that all who wish to be excused from voting on this question will have that privilege. I am the same with Mr. Evans; I think we have enough clerks.

Motioned seconded.

Mr. PIERCE. Mr. President, I arise to a point of order. The motion cannot be put in this manner—unless some individual wants to be excused.

Mr. IVINS. Mr. President, I desire in explanation of my position to say that we have two committee clerks. They are both stenographers, and none of the committees with which I am in any way connected have, as yet, needed the services of a clerk, that they could not readily get one. I think that at this juncture there is no necessity for another clerk, consequently, I wish to be excused from voting.

The PRESIDENT. Shall the gentleman be excused? All in favor will say aye; contrary, no.

The gentleman is excused.

Mr. JAMES. Mr. President, I wish to be excused from voting, for the reason that up to the present time, I have had in the committees a gentleman who has compiled the great bulk of the clerical work that we have had to do before that committee, and of course, I shall present a bill for his time to this Convention, and if they don't pay it, I will have to pay it myself, but I do not think that there is any necessity for another clerk.

The PRESIDENT. Do you want to be excused from voting?

Mr. JAMES. Yes.

The PRESIDENT. The gentleman is excused.

Mr. PARTRIDGE. Mr. President, it was stated here yesterday, when two committee clerks were elected, that there was a gentleman who was proposed, who had worked for twenty or twenty-four committees—

Mr. WELLS. Mr. President, I arise to a point or order. If the gentleman does not wish to vote, it seems to me, he can state he desires to be excused.

Mr. PARTRIDGE. I desire to be excused from voting on this question.

Mr. EVANS (Weber). Mr. President, the rules give the gentleman two minutes to explain his vote.

The PRESIDENT. That is correct.

Mr. PARTRIDGE. For the reason that it was stated that one gentleman could report twenty or twenty-five committees, and we have two, I think we could get along with what we have. I wish to be excused from voting.

Excused.

Mr. WARRUM. Mr. President, I ask to be excused on the ground that I do not know the parties nor their qualifications for the place.

Excused.

Mr. THORESON. Mr. President, I wish to be excused from voting on this question, for the reasons that have been stated.

Excused.

Mr. BOYER. Mr. President, I desire to have my vote cast with the losing party, for I believe that this thing should not be done, and I do not desire to have any hand in the election of another clerk.

Mr. THOMPSON. Mr. President, I arise for information. Is it contemplated that these committee clerks serve us during the session of the Convention, or such length of time as we need their services?

The PRESIDENT. As the chair understands it, these committee clerks are to meet the wishes of the committees in their sessions at such time as may be appointed by the various chairmen, the matter being arranged to work equitably so far as they can. They cannot all have a committee clerk at the same time, but none of the committees are in session here now except the committee on rules; they are permitted to meet any time without special permission.

The result of the vote was as follows:

Miss Madison, 45.

Miss Reese, 35.

Miss Hartley, 11.

No election.

Mr. RICKS. Mr. President, I move we adjourn until 2 o'clock to-morrow.

Seconded.

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Mr. MURDOCK (Beaver). I wish you would withhold that motion for a moment.

Mr. CRANE. If the mover of the motion to adjourn will withhold the motion one moment—two or three of the committees have not been able to secure the services of a clerk, and I would move—

Mr. IVINS. Mr. President, I arise to a point of order. There is a motion before the house to adjourn. The gentleman has no right to make another motion.

Mr. SQUIRES. I ask the gentleman to withhold his motion to adjourn. I have a resolution on the table that was sent up as soon as we opened on this day. It has not been reached.

Mr. RICKS. I will withhold it for that purpose.

The secretary then read the following resolution:

Resolved, that the committee on accounts and expenses be instructed to investigate the cost of arranging the furniture and preparing the Convention hall and committee rooms for the use of the Convention, and report the amount to the Convention.

Mr. SQUIRES. I move the adoption of the resolution.

Carried.

Mr. RICKS. Mr. President, I renew my motion.

The Convention then at 4:46 o'clock p. m. adjourned.

TWELFTH DAY.

FRIDAY, March 15, 1895.

The Convention was called to order by President Smith at 2 o'clock p. m.

The roll was called and members found in attendance as follows:

Adams	Lambert
Allen	Larsen, L.
Anderson	Larsen, C. P.
Barnes	Lemmon
Bowdle	Lewis
Boyer	Low, William

Brandley	Low, Peter
Button	Low, Cache
Buys	Lund
Call	Maeser
Cannon	Maloney
Chidester	Miller
Christianson	Morris
Clark	Moritz
Coray	Murdock, Beaver
Corfman	Murdock, Wasatch
Crane	Murdock, Summit
Creer	Page
Cunningham	Partridge
Cushing	Peters
Driver	Peterson, Grand
Eichnor	Peterson, Sanpete
Eldredge	Pierce
Engberg	Preston
Evans, Weber	Richards
Evans, Utah	Ricks
Farr	Roberts
Francis	Robertson
Gibbs	Robinson, Kane
Green	Robison, Wayne
Hammond	Ryan
Hart	Sharp
Haynes	Shurtliff
Halliday	Snow
Heybourne	Spencer
Howard	Squires
Hughes	Stover
Hyde	Symons
Ivins	Thompson
James	Thorne
Johnson	Thurman
Jolley	Van Horne
Kiesel	Varian
Kearns	Wells
Kerr	Whitney
Kimball, Salt Lake	Williams.
Kimball, Weber	

Mr. LOW (Cache). Mr. President, I desire to state in behalf of Johnson, that he has been suddenly called away and desires to be excused until Tuesday next.

The PRESIDENT. If there is no objection the gentleman will be excused.

Mr. LOW (Cache). Mr. Warrum has also been called away on business and desires to be excused until Monday.

The PRESIDENT. If there is no objection the gentleman will be excused.

Prayer was offered by Rev. Dennis Kielly, of the Roman Catholic Church.

Mr. KIESEL. Mr. President, I believe that all the congregations have been called upon and have responded in offering prayer here, except the Hebrew congregation, and I wish to call that to your attention and hope that you will call on the Rabbi.

The PRESIDENT. We will add their congregation to the list of ministers.

Mr. VARIAN. Mr. President, in behalf of the committee on elections and right of suffrage, I ask permission for a temporary leave of absence for Messrs. Ivins, Sharp, Jolley, Kearns, and myself.

The journal of the 11th day's session was read and approved.

Mr. Bowdle was excused by request.

The PRESIDENT. The next order is the presentation of petitions and memorials.

Mr. THURMAN. Mr. President, I wish to present a memorial relating to woman suffrage from the ladies of Utah County; I ask that it be read and referred to the committee on elections and right of suffrage.

Mr. BUTTON. Mr. President, I move that the rules be suspended and that it be read by its title.

Mr. THURMAN. I ask that the petition be read. It is very short.

Motion seconded.

Mr. KIMBALL (Weber). Mr. President, the motion which passed yesterday suspended all rules of reading the first and second times by its title.

The PRESIDENT. It is asked in this case that it be read.

Mr. RICHARDS. Mr. President, I suggest that if a request be made that a paper be read and there is no objection, it ought to be read.

The secretary then read the memorial as follows:

The undersigned delegates to the Woman's Suffrage Association of Utah County, appointed to represent said association in presenting this memorial to your honorable body, respectfully represent that the women of said association, in common with their sisters throughout the Territory of Utah, are at present deprived of the privileges of American citizenship, notwithstanding the great majority of them are native born citizens of the United States. We further represent that notwithstanding that we are taxed and are amenable to the laws equally with men, still we have no voice or vote upon the justice or propriety of such taxation or expediency of the laws to which we are equally amenable with men.

We recognize with feelings of gratitude that both the great political parties in Utah have declared in favor of equal suffrage. We have no doubt that you will keep the pledge and confer upon the women of Utah that political freedom and equality which justly and logically belongs to them as citizens of the most enlightened, just, and progressive nation on the earth.

Because it is just and because you have solemnly pledged yourselves to accomplish the result, we respectfully request that you insert a clause in the Constitution of the State of Utah, conferring upon women the right of suffrage, and your memorialists will ever pray, etc.

(Signed) MRS. ELECTA BULLOCK;
MRS. SARAH A. BOYER,
MRS. HANNAH S. LAPISH,
Delegates.

The PRESIDENT. It will be read by its title.

Said document was then read by its title by the secretary.

The PRESIDENT. It will go to the committee on elections and right of suffrage.

Introduction of ordinance and propositions for insertion in the Constitution.

Mr. Kearns introduced the following proposition for insertion in the Constitution (file No. 61):

The Legislature shall have the power to grant special charters or grant special acts of incorporation, but all incorporations shall be framed under general acts passed by the Legislature; provided, that all such acts shall prohibit incorporation for political purposes, which shall directly or indirectly prohibit or discriminate against any man or woman, creed, religion or church, by

reason or on account of the religious belief of such man, woman, or church.

Said proposition was read the first time at length, and the second time by its title, and referred to the committee on corporations other than municipal.

Mr. KIMBALL (Weber). Mr. President, I think that should be municipal corporations.

The PRESIDENT. It will go to the one named on the proposition.

Mr. Cushing introduced a proposition for insertion in the Constitution relative to the incorporation of cities (file No. 62), which was read a first and second time by its title and referred to the committee on municipal corporations.

Mr. Cushing introduced a proposition for insertion in the Constitution relative to counties (file No. 63), which was read a first and second time by its title and referred to the committee on municipal corporations.

Mr. Eichnor introduced a proposition for insertion in the Constitution relative to prohibiting municipalities from selling or disposing of or leasing the water works, water rights, water supplies (file No. 64), which was read a first and second time by its title and referred to the committee on municipal corporations.

Mr. Allen introduced a proposition for insertion in the Constitution, relative to districting and apportionment of legislative members (file No. 65), which was read a first and second time by its title and referred to the committee on apportionment and boundaries.

Mr. Partridge introduced a proposition for insertion in the Constitution, relative to militia (file No. 66), which was read a first and second time by its title and referred to the committee on militia.

Mr. Crane introduced a proposition for insertion in the Constitution relative to protecting livestock from contagious diseases (file No. 67).

Mr. CREER. I would like to have that read.

The PRESIDENT. The reading of this is called for, if there is no objection, it will be read.

Mr. EVANS (Weber). I would suggest that Mr. Crane be permitted to read it.

The secretary then read the same as follows:

Section 1. The Legislature shall pass all necessary laws to provide for the protection of live stock against the introduction or spread of pleuro pneumonia, glanders, memitic or Texas fever, and other infectious diseases. The Legislature may also establish a system of quarantine inspection and such other precautions as may be necessary for the protection of stockholders and most conducive to the stock interests within the State.

Mr. THURMAN. Does that belong to the bill of rights?

Mr. CREER. Live stock.

The SECRETARY. Live stock or agriculture.

Mr. HAMMOND. There is no live stock committee.

Said proposition was referred to the committee on water rights, irrigation and agriculture.

Mr. Cannon introduced a proposition for insertion in the Constitution affecting the condition of labor (file No. 68), which was read by the secretary as follows:

It shall be unlawful for any organization or combination of persons to exist in this State, having for its object, either directly or indirectly, the discrimination in any manner whatever, against persons, either male or female, over the age of fourteen years, acquiring knowledge of any trade or profession, or which shall limit or attempt to limit the number of such persons employed by any person, firm or corporation.

Said proposition was read a second time by its title and referred to the committee on labor and arbitration.

Mr. EVANS (Weber). Mr. President, I would like to inquire of the gentleman from Salt Lake the purpose of

introducing the proposition for insertion into the Constitution.

The PRESIDENT. This is out of order I think, I don't see the purpose of it.

Mr. CANNON. Mr. President, the gentleman asked that question I believe in all sincerity and I will answer it frankly. The purpose is—I am not in any way connected with the committee to which it was referred. I think it was a subject that should be introduced.

The PRESIDENT. This is all out of order.

Mr. Thurman introduced a proposition for insertion in the Constitution relative to prohibiting the taking of private property for public purposes without just compensation (file No. 69).

Mr. THURMAN. There are only six lines of it, read it.

The secretary then read as follows:

Private property shall not be taken for public purposes without a just compensation first made, or secured to be made, as may be determined by law; nor shall private property be taken by any private corporations, without compensation being first made, to be determined by agreement of the parties or by a jury in a court of competent jurisdiction.

Said proposition was read a second time by its title and referred to committee on preamble and bill of rights.

Mr. RICHARDS. Mr. President, I move that the rules be suspended and that these propositions be read the first time by their titles unless otherwise requested.

Mr. BUTTON. Mr. President, that motion was already passed when we commenced.

The PRESIDENT. It has not been made here to-day.

Mr. BUTTON. I made the motion; I don't know whether you put it or not.

The PRESIDENT. The motion was not put; the chair did not hear such a motion. You have heard the motion of Mr. Richards to suspend the rule.

Mr. EICHNOR. I hope Mr. Richards

will withdraw his motion for a short time; the gentleman wants the next proposition read.

Mr. RICHARDS. Certainly; the motion was that they be suspended unless the reading is called for.

Mr. Peterson, of Grand County, introduced a proposition relative to boundaries (file No. 87).

Mr. BOYER. I call for the reading of the proposition on boundaries.

The secretary then read as follows:

In convention. Introduced by Mons Peterson.

Proposition to provide for boundaries.

The delegates of the Constitutional Convention of the Territory of Utah, as assembled, do propose as follows:

Sec. 1. The boundary of the State of Utah shall be as follows:

Beginning at the intersection of the 37th meridian of longitude west from Washington, with the 42nd parallel north latitude, thence east along said parallel—

Mr. BOYER. I misunderstood the language of the clerk. I understood the proposition to be on bounties. Now, I apprehend by the reading, that it is boundaries. I, at this stage of the proceedings, would be pleased to withdraw the request for the reading of the article.

Mr. RICHARDS. I renew my motion, Mr. President.

Mr. BUTTON. Mr. President, I want to ask a question. There was a motion made yesterday to suspend the rules that all these papers handed in should be read twice by their titles and referred to the committees, unless request was made to have them read. Now, if that motion to suspend the rules does not stand until there is another motion made to take them up?

Mr. RICHARDS. Mr. President, I do not understand that motion, made for the suspension of the rules to-day, can affect the deliberation of the house on any other day; the rules are in force after we pass that order of business.

The PRESIDENT. The understanding of the chair is, that these rules will have to be suspended from day to day, that a suspension does not apply during the entire session.

Gentlemen, you have heard the motion to suspend the rule, and that these propositions be read by their titles and referred to the appropriate committees.

Carried.

Mr. Cannon introduced a proposition for insertion in the Constitution relative to wages of employes (file No. 70).

Mr. CANNON. I would like to have that read.

The secretary then read the same as follows:

It shall be unlawful for any person, firm, or corporation in this State, to discriminate either directly or indirectly in the wages paid to employes performing the same labor on account of the sex of such employes.

Said proposition was read a second time by its title and referred to the committee on labor and arbitration.

Mr. Maloney introduced a proposition for insertion in the Constitution relative to requiring judges of the supreme, district, and superior courts, to report defects in the laws to the attorney general (file No. 71), which was read a first and second time by its title and referred to the committee on judiciary.

Mr. Hart introduced a proposition for insertion in the Constitution relative to militia (file No. 72), which was read a first and second time by its title and referred to the committee on militia.

Mr. Maloney introduced a proposition for insertion in the Constitution relative to requiring judges of the supreme court to give opinions on questions of law to governor, senate, or house of representatives (file No. 73), which was read a first and second time by its title and referred to the committee on judiciary.

Mr. Maloney introduced a proposition for insertion in the Constitution relative to free publication of supreme court de-

cisions (file No. 74), which was read a first and second time by its title and referred to the committee on judiciary.

Mr. Peters introduced a proposition for insertion in the Constitution relative to county organization (file No. 75), which was read a first and second time by its title and referred to the committee on municipal corporations.

Mr. Maloney introduced a proposition for insertion in the Constitution relative to requiring all judges to decide questions and render decisions within thirty days after argument, or submission to them (file No. 76), which was read a first and second time by its title and referred to the committee on judiciary.

Mr. Lewis introduced a proposition for insertion in the Constitution relative to protecting settlers upon school lands (file No. 77), which was read a first and second time by its title and referred to the committee on education and school lands.

Mr. Kimball (Salt Lake) introduced a proposition for insertion in the Constitution relative to superintendence of district schools and school districts (file No. 78), which was read a first and second time by its title and referred to the committee on education and school lands.

Mr. Francis introduced a proposition for insertion in the Constitution relative to division of counties (file No. 79), which was read a first and second time by its title and referred to the committee on apportionment and boundaries.

Mr. Francis introduced a proposition for insertion in the Constitution relative to forbidding donations of public lands (file No. 80), which was read a first and second time by its title and referred to the committee on public land.

Mr. Francis introduced a proposition for insertion in the Constitution relative to municipal corporations (file No. 81), which was read a first and second time by its title and referred to the committee on municipal corporations.

Mr. Coray introduced a proposition

for insertion in the Constitution relative to fixing the basis of taxation (file No. 82).

Mr. CORAY. I would like to have that read.

The secretary then read the same as follows:

Proposition regulating the basis of taxation. All property in the State except State property, United States property, and public and private libraries, shall be taxed. Said property to be assessed at a valuation on which in the preceding year it has paid the legal rate of interest of the State.

Said proposition was read a second time by its title and referred to the committee on revenue, taxation and public debt.

Mr. Crane introduced a proposition for insertion in the Constitution relative to fixing State boundaries (file No. 83).

Mr. EVANS (Weber). Read it.

The SECRETARY. Articles on boundaries.

Mr. EVANS (Weber). Never mind; I thought he said bounties. I withdraw my request.

Said proposition was read a first and second time by its title and referred to the committee on apportionment and boundaries.

Mr. Low of Cache introduced a proposition for insertion in the Constitution relative to State institutions other than educational (file No. 84), which was read a first and second time by its title and referred to committee on public buildings and State institutions not educational.

Mr. Thurman introduced a proposition for insertion in the Constitution relative to non-partisan election of school and judicial officers (file No. 85).

Mr. KIMBALL (Weber). Mr. President, I thought that was introduced by Evans of Weber.

Mr. EICHNOR. Mr. President, I would like to have that read.

Mr. THURMAN. No objection, Mr. President.

The secretary then read as follows:

Resolved, that the following propositions be inserted in the articles on elections and rights of suffrage in the Constitution, to-wit:

The terms of office of all officers made elective by this Constitution, made in pursuance thereof, shall be so established that school and judicial officers shall not be elected on any day when other officers are elected.

Said proposition was read a second time by its title and referred to the committee on elections and right of suffrage.

Mr. Allen introduced a proposition for insertion in the Constitution, relative to narcotics (file No. 86), which was read a first and second time by its title and referred to the committee on schedule, and future amendments, and miscellaneous.

Mr. Peterson of Grand introduced a proposition for insertion in the Constitution, to provide for boundaries (file No. 87), which was read a first and second time by its title and referred to the committee on apportionment and boundaries.

Mr. RICKS. Mr. President, I move that when this assembly adjourn, it will be to meet to-morrow morning at 10 o'clock.

Mr. KIMBALL (Weber). Oh, no.
Motion seconded.

Mr. JAMES. Mr. President, I move that when this Convention adjourn it be until 2 o'clock on Monday.

Mr. EVANS (Weber). Let us get through the order of business.

Mr. HART. Mr. President, there is a motion to fix the time of adjournment, that has precedence.

Mr. RICHARDS. Mr. President, is this motion in order?

The PRESIDENT. Yes, sir.

Mr. RICHARDS. Has the president passed to the point of reaching the order of motions.

The PRESIDENT. No, sir.

Mr. RICHARDS. Then, how is this in order?

The PRESIDENT. A motion to adjourn is always in order.

Mr. RICHARDS. Yes; but a motion to fix the time for adjournment is not always in order.

Mr. EICHNOR. I ask the gentleman from Sevier County to withhold his motion for a moment. There is another proposition on the table for insertion in the Constitution.

Mr. RICKS. It does not make any difference.

The PRESIDENT. We will finish the record here with the consent of the gentleman.

Mr. Snow introduced a proposition for insertion in the Constitution relating to legislative apportionment (file No. 88), which was read a first and second time by its title and referred to the committee on apportionment and boundaries.

Mr. EICHNOR. I would like to have that read.

The PRESIDENT. The secretary will read it.

The secretary then read the same as follows:

In the apportionment of the State of Utah for legislative purposes, every organized county shall have at least one member of the house of representatives.

Reference, committee on apportionment and boundaries.

Mr. SQUIRES, Mr. President, I move that committee be changed to the committee on legislative.

The PRESIDENT. Is there a second to that motion? If there is no objection—

Mr. SNOW. I object, Mr. President; I want it to go to the committee on apportionment and boundaries.

Mr. THURMAN. Mr. President, I second the motion for referring it to the committee on apportionment and boundaries.

The PRESIDENT. There is no second to the other motion. If there is no objection, it will go to that committee.

Mr. BUTTON. Mr. President, is the table clear?

The PRESIDENT. The motion before the house is to fix the time to which to adjourn.

Mr. BUTTON. Mr. President, the amendment was not seconded. I move to amend that by saying Monday at 2 o'clock.

Mr. RICHARDS. I second the amendment of the gentleman from Salt Lake.

Mr. RICKS. Mr. President, I will accept the amendment.

Mr. ROBERTS. Mr. President, I sincerely hope that that motion will not prevail.

The PRESIDENT. It is not debatable.

Mr. THURMAN. Fixing the time—it is debatable.

The PRESIDENT. If there is no other question before the house it is debatable.

Mr. RICKS. Mr. President, it is out of its regular order and consequently it is undebatable.

Mr. EVANS (Weber). Mr. President, I arise to a point of order. The motion to adjourn to 2 o'clock on Monday is not in order. The first rule which we have provided reads as follows:

Unless otherwise ordered the Convention shall meet on each day, except Sundays and holidays, at the hour of 10 o'clock a. m.

That rule must be suspended before the motion is in order.

Mr. KIMBALL (Weber). That was amended, Mr. Evans, to read 2 o'clock.

Mr. EVANS (Weber). Read that two; but this motion is intended to skip Saturday; according to our rules we shall meet each day and we cannot suspend that rule except with a two-thirds vote.

Mr. FARR. Mr. President, I would like to hear the gentleman's reason for adjourning over until Monday.

Mr. SQUIRES. Mr. President, the language in the first part of that rule—I call the gentleman from Weber's attention to it. "Unless otherwise ordered."

What does that mean but to take a vote upon it?

Mr. EVANS (Weber). That means that we have got to order it by a two-thirds vote.

Mr. SQUIRES. Why does it not say so, then?

Mr. HOWARD. Mr. President, is there any other question before the house except this motion to adjourn to a certain time?

The PRESIDENT. No, sir; there is no other question, except the regular order of business, and the motion to fix the time to adjourn is in order at any time.

Mr. HOWARD. Mr. President, Roberts' Rules of Order provide, on page 36, in reference to fixing the time to which the assembly shall adjourn. It says, if made when no other question is before the assembly, it stands as any other principal motion and is debatable.

Mr. ROBERTS. Mr. President, proceeding then to discuss that question of fixing the time until 2 o'clock on Monday, I wish to say that I hope that motion will not prevail. It would be the loss of a day, and I understand there is at least one of the standing committees that will be able to report to-morrow and place before this Convention, matter for consideration, that shall go into the Constitution that we are here to frame. That being the case, I think it would be an infinite pity to adjourn over until Monday, and lose practically one precious day in the consideration of the matters we were sent here to take under advisement. We have been here now for a long while—

Mr. RICKS. I withdraw my motion with the consent of the second—if that is a fact—I hadn't the slightest idea any committee would be ready to report to-morrow.

Mr. RICHARDS. Mr. President, I now move that when this Convention adjourn, it will be until Monday at 2 o'clock.

Seconded.

Mr. KIMBALL (Weber). I second that motion.

Mr. RICHARDS. And I desire to state my reasons for making the motion.

The PRESIDENT. The rule fixes the hour—

Mr. ROBERTS. Mr. President, I have the floor—

Mr. RICHARDS. Mr. President, I submit there is nothing before the house except my motion.

The PRESIDENT. The gentleman is correct. There is nothing before the house.

Mr. RICHARDS. I had the floor.

Mr. HART. Mr. President, Mr. Ricks' motion is before the house, to adjourn until to-morrow morning at 10 o'clock.

Mr. JAMES. Mr. President, he withdrew his motion.

Mr. HART. I object to his withdrawing his motion. This is the first opportunity I have had to make objection. When a gentleman makes a motion he cannot withdraw it at will—

Mr. RICHARDS. Mr. President. I offer as an amendment to that motion—

Mr. ROBERTS. Mr. President, I arise to a point of order, I have the floor.

The PRESIDENT. There is no question before the house—

Mr. ROBERTS. I understood the ruling of the chair to be that the proposition of Mr. Ricks was before the house for consideration and that was the proposition that I was discussing.

The PRESIDENT. There was an effort to withdraw—

Mr. RICKS. Mr. President, I will claim that this question is undebatable for this reason, now considering the proposition—

Mr. EVANS (Weber). Mr. President, I arise to a point of order; my point is, that the chair has decided that; if the gentleman does not like the decision, let him appeal from it.

Mr. FRANCIS. Correct.

Mr. ROBERTS. Now, Mr. President—

The PRESIDENT. The motion is before the house; Mr. Roberts you may proceed.

Mr. ROBERTS. I repeat that it would be almost an outrage to lose to-morrow's work—

Mr. LUND. Mr. President—

The PRESIDENT. No other question before the house; this is debatable. Mr. Roberts has the floor.

Mr. LUND. I would just like to ask the gentleman a question, is all—if he understands the motion of Mr. Ricks? If I understand it correctly, it is to move to adjourn until to-morrow morning at 10 o'clock—I am certainly in favor of it.

Mr. ROBERTS. I thought Mr. Ricks' motion was to adjourn until Monday.

The PRESIDENT. The understanding of the chair was, that Mr. Ricks accepted the amendment to the motion to adjourn until 2 o'clock on Monday.

Mr. ROBERTS. Then I grant you that my remarks are not in place. The only thing I wanted to do was to protest against this adjournment until Monday.

Mr. EVANS (Utah). Mr. President, I make another point of order. When the gentleman accepted the amendment it became his motion, which motion is 2 o'clock on Monday, and I object to its being withdrawn. It cannot be done. That is the question before the house.

The PRESIDENT. The point of order is well taken by the gentleman on that question as I understand it—

Mr. HART. Does the chair now rule that motion is before the house—the motion to adjourn until Monday at 2 o'clock.

The PRESIDENT. That is it.

Mr. BUTTON. No; that when we adjourn, to adjourn until 2 o'clock Monday?

The PRESIDENT. The proposition to fix the time—

Mr. HART. When we adjourn we adjourn to meet at 10 o'clock to-morrow.

The PRESIDENT. 2 o'clock on Monday.

Mr. HART. Now, the gentleman undertook without the consent of this house to withdraw his motion, or in other words to accept a different proposition, to which I object. The point of order I raise is that Mr. Ricks' motion to adjourn until to-morrow morning at 10 o'clock is the proposition now before the house. The gentleman withdrew his amendment and the original motion before the house is the proposition of Mr. Ricks to adjourn until to-morrow morning at 10 o'clock.

The PRESIDENT. Mr. Ricks accepted Mr. James' amendment and there was no objection to it at that time, if there is an objection, before this is discussed—

Mr. HART. I object to it, this is the first opportunity I have had. I object to the other proposition.

Mr. RICKS. Mr. President, inasmuch as there seems to be a muddle here I will withdraw my motion to adjourn until Monday at 2 o'clock, and name to-morrow at 10 o'clock.

Mr. HART. I insist on the chair ruling on the point of order before the house.

Mr. KIMBALL (Weber). Mr. President I suggest to change the general rule to take a two-thirds vote to adjourn until 10 o'clock. The rule is that each day we shall meet at 2 o'clock.

The PRESIDENT. A two-thirds vote on it will be necessary. Gentlemen, you have heard this motion to adjourn until to-morrow morning at 10 o'clock.

Mr. RICHARDS. Mr. President, I offer as an amendment that when the Convention adjourn, it will be until Monday at 2 o'clock.

Mr. BUTTON. I second the amendment.

The PRESIDENT. Gentlemen, you have heard the motion.

Mr. RICHARDS. Mr. President, I

desire to give my reasons for offering this amendment. I offer the amendment for the very reason assigned by the delegate from Davis, as being opposed to this motion, and in favor of meeting to-morrow. I say that instead of losing a day by adjourning until Monday we will make a day. We meet here every afternoon. We make no progress. We spent to-day, by the clock, one hour in amending our minutes—the minutes of yesterday. What have we done since then? Received various propositions, that may be valuable (I don't desire to underestimate their value), but we have now before the various committees a great number of propositions, and while this house is in session, in the afternoon, under the rules the committees cannot be in session. If the house were not in session the committees might be in session. Now, my object in making this motion is to afford the committees an opportunity to spend an entire day, to-morrow, in their work, that they may be ready on Monday to report to this Convention; but the gentleman from Davis says that one of the committees will be prepared to report to-morrow. Then I would be in favor of according to that committee the privilege of having their report printed in advance. If it be ready to-morrow, let them give it to the committee on printing and have it ready on our tables here on Monday, that we may commence work and afford the committees an opportunity to prepare their work, and that we may come in here and have something to do, besides meeting day after day at the expense of six hundred dollars to the government, and spending an hour or two in correcting our minutes; that is what we are doing and that is about all that we are doing. Now, if I believed that the effect of this motion would be to delay the work of this Convention one moment, or if I believed that by making this motion, it would not be accelerating the speed of

this Convention, I would not make it, but I believe that it would have that effect. I know that it certainly will if the members will attend to their business in committees to-morrow instead of meeting here and going through the reading of minutes from day to day.

Mr. CANNON. Mr. President, I arise for information. I would like to ask the gentleman from Davis what committee will be prepared to report to-morrow, if he is at liberty to say.

Mr. ROBERTS. Mr. President, I am informed that the committee on preamble and declaration of rights will be ready to report to-morrow.

Mr. CANNON. Mr. President, I favor the proposition of Mr. Richards. I think that we will on the whole gain more time by adjourning, when we do adjourn, to Monday at 2 o'clock than if we were to meet to-morrow.

The PRESIDENT. This motion will have the effect of suspending the rule.

Mr. THURMAN. Mr. President, I am opposed to adjourning until Monday. Last week on Friday we adjourned until Monday, believing that we might do something on Saturday; the result was that my friends in Salt Lake, who live here, went about their business, and the gentlemen who lived in the country, as many as could of them went home. We could not get any committee work done, and that will be the result to-morrow. If there is any thing we can do in Convention here to-morrow, let us meet to-morrow. If there are any gentlemen that cannot be here let them get excused and go about their business. There are a good many people here at least from the country, that want to get through with this business, and finally adjourn, and I am one of them. I think we ought to meet at ten o'clock to-morrow or two o'clock to-morrow, as may suit the convenience of the majority, but I am opposed to adjourning until Monday.

Mr. CHIDESTER. Mr. President, I would like to say this in answer to the

gentleman from Utah County: when there is committee work to do that no member of this Convention has any right to go home. They are in duty bound to stay here and attend to that work, and for the reason that some of them have not been so diligent as they might be; the committees have not been able to do the proper amount of work. But that is no reason why we should not adjourn and give these committees time to do the work. They have not had time. The reason that the committees did not do the work the last time that we adjourned, was because the chairmen of various committees failed to get their notices out so that there was a good understanding, but if the Convention will give the chairmen an opportunity now of notifying their committees when they will meet, they can accomplish more by adjourning until Monday than they can to undertake to run this Convention every day, for the reason that the committees are accomplishing very little work, when they have but a short time to work in. There is where the work is being done now; there is no great work being done here in this Convention.

Mr. CANNON. Mr. President, I move the previous question.

The PRESIDENT. Shall the main question be now put?

Carried.

The PRESIDENT. The question is on the motion of Mr. Richards to amend the motion of Mr. Ricks as to the time of adjournment. The motion before the house is the adjournment until Monday at 2 o'clock. As I understand it, this changes the rule and will require a two-thirds vote.

All in favor of the motion of Mr. Richards will say aye; those opposed, no.

The chair is in doubt.

By a rising vote the motion was declared lost by a vote of 51 ayes to 30 noes.

Mr. CANNON. Mr. President, I would

like to know where it provides that there must be a two-thirds vote.

Mr. KIMBALL (Weber). The rule is that we adjourn until 2 o'clock anyway.

Mr. EVANS (Utah). On page 98 of Roberts' rules.

Mr. EICHNOR. Does the chair rule that the motion is lost?

The PRESIDENT. Yes, sir; that it requires a two-thirds vote.

Mr. EICHNOR. Two-thirds vote of the whole house or of the members present?

The PRESIDENT. The question before the house is on the adjournment until to-morrow morning at 10 o'clock. All in favor of the motion say aye.

Mr. CORAY. Mr. President, as I understand it, it requires a two-thirds vote to decide the main question shall be put, but when the main question is put, I don't.

The PRESIDENT. The standing rules of the Convention and the regular orders of business shall not be suspended or interrupted unless by a vote of two-thirds of the delegates present. The regular time of adjournment would be until to-morrow afternoon at 2 o'clock. This proposes to skip a day and be 2 o'clock on Monday.

Mr. RICKS. The question on my motion.

The PRESIDENT. The question now before the Convention is Mr. Ricks' motion to adjourn until to-morrow at 10 o'clock, when we do adjourn, all in favor of the motion say aye.

Mr. GIBBS. Mr. President, I would like to offer an amendment until to-morrow afternoon at 2 o'clock.

Mr. KIMBALL (Weber). Mr. President, I move to amend that motion by saying half past one o'clock on Monday afternoon.

Mr. RYAN. Mr. President, I arise to a point of order. This question, as I understand it, is not amendable after the first part of the motion was put.

The PRESIDENT. The question in

regard to adjournment until to-morrow at 10 o'clock.

The question was put and the motion declared lost.

The PRESIDENT. Our adjournment will be in the regular order, without there is some change, until to-morrow at 2 o'clock, under the rule.

Unfinished business, gentlemen, is now in order.

Mr. WELLS. Mr. President, if there is any unfinished business on the table, is it the business of members to call for it, or does it come up?

The PRESIDENT. It comes up legitimately, as I understand it.

Mr. WELLS. We were attempting to decide upon the appointment of a committee clerk, as I understand it, yesterday.

The PRESIDENT. The question before the house upon our adjournment last night was the question of the committee clerk.

Mr. CANNON. Mr. President, I would like to state before the vote is taken upon this committee clerk that since last night I have been informed, by parties who are perfectly familiar with all those interested, that the lady who was nominated by Mr. Wells, Miss Reese, is a competent stenographer, a first class typewriter, in addition to that she supports her mother and those who are dependent upon her. I have also been informed by parties interested and acquainted with the facts, that one of the other ladies named—the lady who received the highest vote last night has employment and that Miss Reese at this time has not, and therefore hope that the Convention will vote for Miss Reese.

Mr. GOODWIN. Mr. President, I wish to say that the little girl that received the most votes yesterday is one of the most thorough, stenographers and typewriters of this city, one of the most rapid workers; she has had two years' experience in newspaper office, and while she has employment, it is beggarly employment and she is entitled

by her character and her position to the generous consideration of all the gentlemen upon this floor.

Mr. BUTTON. Mr. President—

The PRESIDENT. Mr. Button has made an effort several times to get the attention of the chair.

Mr. BUTTON. Before this was called upon, I intended to make a motion, if it was in order, to have the chairmen of different committees announce the different committee meetings at this time under this order.

The PRESIDENT. I think that it is a good suggestion. It is out of order until after this proposition.

Mr. BUTTON. We don't know where to go, and the ladies who are committee clerks don't know where to go.

Mr. RICKS. Mr. President, since yesterday, I have learned that the two committee clerks that we have have not been engaged in any service until this morning. I therefore move that we postpone the employment of another committee clerk indefinitely.

Mr. WHITNEY. I second the motion.

The PRESIDENT. Gentlemen, you have heard the motion, that we postpone the employment of another committee clerk indefinitely. This motion is seconded. All those in favor of—

Mr. CANNON. Mr. President—

Mr. RICKS. I arise to a point of order. This question is undebatable.

The PRESIDENT. That is true. The point of order is undebatable. I do not believe it is debatable. Gentlemen, you have heard the motion that the employment of this other committee clerk be postponed indefinitely.

Carried.

Motions and resolutions.

Mr. EVANS (Weber). I desire to introduce a resolution and ask its immediate consideration.

Mr. BUTTON. Mr. President, if I am in order now, I wish to make a motion.

Mr. EVANS (Weber). Mr. President, I have the chair.

The PRESIDENT. Mr. Evans has

the chair, Mr. Button—[Laughter]. Or the floor, he had the chair in his hand.

The secretary then read Mr. Evans' resolution as follows:

Resolved, that the territorial auditor be requested to furnish the Convention, for its information, a statement of the amount of bonded indebtedness of the Territory of Utah, together with the dates when each series of bonds issued and the rates of interest thereon, and when payable; and, be it further

Resolved, that the recorder of each municipal corporation in this Territory be requested to furnish, for the information of the Convention, the bonded indebtedness of such city, together with the dates when each series of bonds were issued, and when payable, and the rate of interest thereon; and, be it further

Resolved, that the county clerk of each county in Utah Territory be requested to furnish the Convention with information respecting the bonded indebtedness of such county, together with the dates when such bonds issued, and the interest thereon, and when payable; and, be it further

Resolved, that the school board of each school district in this Territory be requested to furnish, for the information of this Convention, the amount of bonded indebtedness incurred by such district, and the dates when such bonds issued, and rate of interest thereon, and when payable.

Mr. EVANS (Weber). Mr. President, I move the adoption of the resolution.

Mr. ROBERTS. I second it.

The resolution was adopted.

Mr. THURMAN. Mr. President, in view of the trouble we are having here in relation to our minutes and the length of time it takes to correct every day, I move the chair appoint a standing committee of three to correct the minutes, instead of taking up the time of this Convention.

Seconded.

Mr. PIERCE. Mr. President, I move you as an amendment to the motion that this subject be referred to the committee on engrossment and enrollment.

Seconded.

Mr. ROBERTS. Mr. President, I un-

derstood that amendment to be seconded and now before the house?

The PRESIDENT. Yes, sir.

Mr. ROBERTS. Mr. President, I hope it will not prevail. The committee on engrossment and enrollment have duties appertaining simply to the engrossment and enrollment of the Constitution as it shall be framed by the Convention, and I think it is an inappropriate committee. I think there should be a special committee selected with their fitness in view for revising these minutes and getting them in such shape that we will not spend from forty-five minutes to sixty in correcting them every day.

Mr. PIERCE. Mr. President, the committee on engrossment and enrollment is a committee that is well qualified to attend to this business, as much as any committee that could be appointed from this body, and the argument made by the gentleman from Davis County was just the argument I shall make myself, that that committee has nothing to do at the present time as a committee and this matter could be entirely referred to it and that committee take it up and attend to it and report each day.

Mr. RICHARDS. Mr. President, I desire to ask when these minutes shall be revised—before they go the printer?

Mr. THURMAN. Before they are read here?

Mr. RICHARDS. Before they are printed or after?

Mr. PRESTON. Before they are printed.

The PRESIDENT. Before they are printed, is, I suppose, the meaning of the motion.

Mr. THURMAN. Mr. President, with the consent of my second, I accept the proposition or amendment proposed by Mr. Pierce, if they are a suitable committee; I do not know as to the personnel, but inasmuch as they have nothing to do for awhile, let them do that.

Mr. HART. Mr. President, I don't know about referring this matter to this particular committee, but I think it would be well to refer the matter to one of the standing committees. Otherwise, if this amendment fails and the motion comes on the appointment of a standing committee, that would have to be referred to the committee on rules. As it now stands, the committee on rules have reported what the duties of standing committees shall be, and there is also the rule that all changes in that shall be submitted to the committee on rules. Therefore, I favor referring this matter either to this committee or to some other committee named, rather than create a new committee.

Mr. SQUIRES. Mr. President, I move as an amendment that this matter be referred to a special committee of three.

Mr. ELDREDGE. Mr. President, the gentleman is out of order.

Mr. VAN HORNE. Mr. President—

Mr. KERR. Mr. President, I understand that there is a motion to the effect that a committee of three shall be appointed to correct and revise the minutes. That has been amended, that the committee on engrossment and enrollment—

The PRESIDENT. The original mover has accepted the amendment, that is the way it stands.

Mr. KERR. Mr. President, I move an amendment to the effect that the committee on printing shall be the committee to revise and amend the journal.

Mr. VAN HORNE. Mr. President, I think that our rules determine that the committee on revision and compilation is the one that has the correction of verbal inaccuracies under the rules, and will have nothing to do until we have completed all our work, and from the personnel of the committee and everything of that sort, I move you as an amendment that the question of the revision of the minutes be referred to

the committee on revision and compilation.

Mr. RICHARDS. I second the motion.

The PRESIDENT. The original motion as I understand it now, is the reference to the committee on engrossment and enrollment—the amendment is to the committee on compilation and arrangement.

Mr. ELDREDGE. Mr. President, I understand that the original motion is to appoint a committee of three?

The PRESIDENT. It was withdrawn by Mr. Thurman and he accepted the proposition.

Mr. RICHARDS. Mr. President, before the motion is put I will ask if he will include in it that this committee is to make this revision before the minutes go to the printer.

Mr. VAN HORNE. Yes, sir; that was the intention of the motion.

The PRESIDENT. All in favor of the amendment of Mr. Van Horne to the original motion, that the revision of the minutes go to the committee on compilation and arrangement, say aye; contrary, no.

The motion was declared carried.

Mr. CORAY. Mr. President, I wish to offer a resolution that announcement of the meetings of the committees and caucuses shall take precedence of a motion to adjourn.

Seconded.

Mr. EVANS (Weber). Mr. President, I move that motion be referred to the committee on rules.

Carried.

Mr. CRANE. Mr. President, for the information of those who live out of the city, I have a letter that I would ask the secretary to please read.

The secretary then read the following:

SALT LAKE CITY, March 12, 1895.

HON. CHARLES CRANE, City.

DEAR SIR: We are in receipt of your letters of the 9th inst. requesting rate of one cent per mile for members of the Constitutional Convention, when traveling between their homes and this city, and in reply, beg to state that arrange-

ments have been made for rate of one fare for the round trip for all members of the Convention between above points during the life of the Convention.

It is only necessary for the members to present their credentials or certificates of membership in order to procure this rate, which, to our mind, is as low a rate as can consistently be granted, and which, I think you will find, is entirely satisfactory to the parties interested.

It is probable members of the Convention do not understand that this rate was granted for more than the first trip to Salt Lake.

We will be pleased if you will give all interested to understand that the rate is in effect until the Convention closes.

Yours truly,

J. H. BENNETT,

G. P. & T. A., R. G. W. Ry.

D. E. BURLEY,

General Agent, U. P. System.

Mr. CRANE. Mr. President, I move that we tender the gentlemen a vote of thanks for their kindness.

Carried.

Mr. Howard introduced the following resolution, which was read by the secretary:

Resolved, that all questions relating to apportionment of members of the Legislature and boundaries of legislative districts be referred to the committee on apportionment and boundaries for their consideration.

Mr. HOWARD. Mr. President, I move that the resolution be adopted.

Seconded.

Mr. ROBERTS. Mr. President—

Mr. SQUIRES. Mr. President, I am not quite ready yet to vote on that proposition. A committee here has been appointed—a standing committee by this body, called the committee on legislative. Another committee has been appointed upon executive. If I understand the duties of these committees, the duty of the one is to provide for an article upon the executive department of the State. The duty of the other is to provide for the legislative department of the State. Now, I do not understand why the matter should be referred to the committee on apportionment and boundaries. I believe that it

is the duty of the committee on legislative to prepare an article for the Constitution specifying the membership of the two houses, leaving the matter of apportioning those delegates or those representatives through the different portions of this Territory in the hands of the committee on apportionment and boundaries. A conference committee was appointed when the conflict came between the two committees, and those committees met and talked this matter over. I understood as a result of that that the committee on apportionment were willing to concede to the committee on legislative that they might fix the maximum and minimum membership of the two houses, and then the committee on apportionment should bring in a final report to this Convention. I am glad the matter has been brought to the attention of the Convention, because it is important that these two committees should understand what their respective powers and duties are in this matter. For my own part, I have conceived it to be the duty of the legislative to designate the names of the two houses to be formed in the State and to specify the membership of those houses so far as it may be left to them.

Mr. HOWARD. Mr. President, I understood that there had been a conflict between those two committees referred to by the gentleman who has just spoken, and I understood that when this committee on apportionment and boundaries were appointed, that they were appointed for that purpose—to apportion the number of members for the Legislature and to define the boundaries of legislative districts. In talking with members that belonged to this committee I understand that this conference committee has not been held, but they have informed me—some of them, that they did not understand that the matter has been settled.

This committee on apportionment and boundaries is composed of one

member from each county in the Territory. Therefore, it has a representation of the people of the Territory, and for that reason I think they ought to have the jurisdiction of that matter, and decide it and present it to this Convention. I do not think we ought to put that matter in the hands of any other committee for the reason that I have stated that this committee is composed of one member from each county, and all the people ought to have a say in this matter, and in referring it to that committee, each section of the country will be represented, and I hope that the resolution will prevail.

Mr. THURMAN. Mr. President, I ask that the resolution be read.

The resolution was re-read by the secretary.

Mr. THURMAN. Now, I do not see why that resolution should not prevail. The very name of that committee implies what it was appointed for. The resolution asks that all matters relating to apportionment and boundaries be referred to the committee on apportionment and boundaries, and how any question could have ever arisen in the minds of gentlemen respecting their duties in this respect, is something I am unable to understand. The legislative department is given to the committee—the name it has implies that it shall define the powers and jurisdiction of the legislative assembly when it meets as an assembly, the kind of laws that it may make; and it has nothing whatever to do with where they shall come from, or how many of them shall come from a certain district. You take that away from the committee on apportionment, and what have they got left to do? What were we created for?

Mr. RICHARDS. Will the gentleman from Utah permit me an interruption? I think the gentleman misapprehends the question; as I understand it from the reference made by the gentleman from Salt Lake, it was as to the number, not as to the locality and the ap-

portionment, but as to the number that shall constitute the membership of each branch of the Legislature. I merely make the suggestion.

Mr. THURMAN I am speaking to the resolution. The resolution is that matters relating to apportionment and boundaries be referred to the committee on apportionment and boundary.

Mr. RICHARDS. I think the gentleman is entirely correct, and that the resolution should prevail, but the question raised by the gentleman from Salt Lake was not that question.

Mr. THURMAN. It may be that the resolution as it is now written will not obtain the sense of this house upon the question the gentlemen want determined, but most certainly as the resolution is worded it ought to prevail and all such questions should go to that committee.

Mr. VAN HORNE. Mr. President, I listened very carefully to the wording of the resolution as presented; it seems to me that there is no objection, whatever, as far as the resolution itself is concerned, and it expresses the sense of this house, as to the proper method of procedure, but I understand also from the remarks of the mover of that motion that he thinks that resolution carries with it the power to fix the number of houses of the Legislature. That is a matter that has been in dispute between the two committees, the legislative committee claiming that by its powers, by its name, it was the proper committee to determine what should be the membership of the two houses of the Legislature and should make the report to this Convention as to its final decision on that matter, to get the sense of the Convention. It is claimed, as I understand, by the committee on apportionment, that the power to apportion carries with it the power to fix the number of the Legislature, and I judge from the remarks of the gentleman moving this resolution, that he thinks this resolution will carry that power with it. The

legislative committee is clear in its membership, that their province is to fix in their report the number of the upper and lower houses of the Legislature of the proposed State of Utah. And while I see no objection to the resolution, as it is, if I thought the resolution did take away from the legislative committee that power, I should certainly oppose it.

The question was called for by a number of members.

The PRESIDENT. Gentlemen, the motion before the house is to adopt this resolution as offered by Mr. Howard.

The resolution was adopted.

Mr. SNOW. Mr. President, I have a resolution which I desire to offer.

The resolution was read by the secretary, as follows:

Resolved, that it be the sense of this Convention that the jurisdiction of determining the number of senators and representatives properly belongs to the committee on apportionment and boundaries.

Several members seconded the motion.

The PRESIDENT. Is there a motion for adoption of the resolution?

Mr. SNOW. I move the adoption of the resolution.

Seconded.

Mr. EICHNOR. Mr. President, in the first stage of this Convention, I heard so much about precedents, now, I will state that the majority of the states and the United States have the power of fixing the number of senators and members of the lower house embodied in the legislative department.

Mr. THURMAN. Yes, but we don't follow precedent.

Mr. EVANS (Weber). I would like to ask you if the first day of the session was according to precedent.

Mr. EICHNOR. Well, we will make one, if we did not have one.

The PRESIDENT. Mr. Eichnor has the floor, gentlemen.

Mr. EICHNOR. Mr. President, and

gentlemen of the Convention, it is a matter that properly belongs to the legislative department to fix the number, and then the committee on apportionment distributes them over the Territory or over the coming State. Washington, Idaho, Wyoming, nearly all the western states—in fact I do not know any particular state that makes an exception to this general rule. As far as I am concerned, I am not on the legislative committee, neither am I on the committee on apportionment and boundaries, but as a principle laid down in constitutions, I am firmly of the opinion that the matter belongs to the legislative department. If there is contention between the legislative department and the committee on apportionment and boundaries, let them get together and not come in here and waste our time. Let them get together and agree on a plan.

Mr. SNOW. Mr. President, as the introducer of that resolution I desire to say that early in the session, or early in the week, I noticed in the newspaper that the chairman of the legislative committee had announced what in his opinion ought to be the proper ratio of numbers of members of the house of representatives and senate. This immediately set the members of the committee on apportionment and boundaries to talking about the subject, they unanimously believing that that had been delegated to them. In the committee room when it was suggested and carried and incorporated in the majority report that this committee should comprise a member from each county, it was understood by those members that this was one of their particular duties. When they were appointed upon that committee they believed so and they, consequently, sincerely and honestly believed that it was their proper jurisdiction. Likewise in all sincerity, the legislative committee claimed it and there has been a conflict of these two committees, and they have

been unable to agree, and they said the only thing they could do was to get the sense of this Convention. Inasmuch as the resolution that was first presented here, did not cover the ground, and members of the legislative committee desired this question mooted, because they raised it themselves, I thought to bring it to an issue, and I think it is proper and should be decided upon by the Convention. Now, in relation to precedent. I have endeavored in my votes here to follow precedent. That is, a well established precedent of constitutional law. I hope every member of the Convention can say the same thing, but I do not think men who have voted here in this Convention on matters which they thought to be right against precedent ought to have anything to say about precedent now when a matter of right is before them. I contend that this is a matter of right,—of right it belongs to this committee, for the reasons stated by the gentleman from Emery, that it is a representative committee composed of members from each county. Moreover, we have a very notable precedent for this. In the convention that framed the Constitution of the United States this same question came up and was referred to a committee consisting of a member from each state, with the express purpose of giving them all representation, not only as to the apportionment, but also as determining the number, the smaller states claiming representation in the senate with the larger ones, and the larger ones denying their right. Mr. President, there are quite a number of precedents in recent constitution making for the committee on apportionment having this jurisdiction. I have on my table the journal of the proceedings of the North Dakota constitutional convention, in which, on page 195, the chairman of this same committee on apportionment and boundaries makes a report to the house or to the convention, in which it says

that they have had under consideration files number 20, 33, 66 and 108, all of which refer to and determine the number of senators and representatives and their apportionment in senatorial and representative districts throughout their state. Throughout the proceedings of this convention this committee had jurisdiction entirely over this determination of the number and of the apportionment. It is true that the constitutions which we have before us have, in the legislative department, incorporated the number that the senate and house shall consist of, but the journals do not substantiate the view that that committee has always had the jurisdiction of the determining of the number. Wyoming, I am credibly informed by members of the apportionment committee—Wyoming also in their journal gave the jurisdiction of this matter to their committee on boundaries and apportionment. It has always been represented to me that Michigan did also, but of the latter I cannot state from personal fact, as I have not had the possession of these journals, but I will say that in these two instances of recent constitution making they have delegated this power to this committee, and I think that it is proper, and it is right and eminently fit that this committee should handle it. As I said on the floors of this Convention some few days ago, there is no disposition in this committee to do anything that is unfair or unjust, but they desire that in this important matter every county shall be represented, and I contend that it is the most fit committee that we have of all our standing committees to decide on this important question, and bring in a report to this Convention.

Mr. MALONEY. Mr. President, as a member of the committee on the various standing committees, I wish to say in reply to the gentleman who has just taken his seat that the committee has never talked, so far as my information goes, to the effect that we should allow

the committee on apportionment and boundaries to have anything to do or say with the number of senators or representatives. That belongs, according to my judgment, to the legislative committee. The object that I had in view, and I believe the majority of the committee had, was that the committee on apportionment and boundaries take into consideration and perfect senatorial and legislative districts throughout the Territory, and the object of having a member of that committee from each county was to see that that county was properly apportioned and had its representation. I don't think there is any doubt in the mind of any member of this Convention, except perhaps one or two, in regard to the true construction of these committees and what the intention of the committee was who formed these committees. The resolution reads:

Resolved, that it be the sense of this Convention that the jurisdiction of determining the number of senators and representatives properly belongs to the committee on apportionment and boundaries.

That undoubtedly belongs to the legislative committee.

Mr. CHIDESTER. Mr. President, as one of the committee that helped create this committee, I wish to say that my understanding was exactly the reverse of that of the gentleman who has just spoken. He understood that that would be the purpose—that was discussed and the name of this committee was brought in question and it was so decided as I understood that this committee was the one that should have that jurisdiction, and it appears to me to be right and proper, for the reason that the committee consisted of one member from each county and that it would be proper for that committee to say how many it should consist of and where the boundaries should be, and there has been no precedent cited to the contrary. The precedents mentioned by Mr. Eichnor were not cited. We have no precedent

before us to the contrary of what was stated by Mr. Snow. Therefore, I believe that that is the proper committee. I believe that that was the understanding of the committee that created it and that it was for that expressed purpose, and therefore I favor that motion and I believe that that jurisdiction should be conferred upon them.

Mr. ROBERTS. Mr. President, I also was a member of the committee which fixed or suggested the number of names of the standing committee, and I wish to say that either my recollection or the gentleman's recollection who last spoke, is wonderfully defective. My understanding of that was when discussed in that committee that the only duty in this matter that belonged to the committee on apportionment and boundaries, was to apportion the senatorial and representative districts and that it was the proper function of the legislative committee to determine the number both of senators and representatives that should be in the senate and in the house respectively. In the matter of precedent—I do not see that is a subject that need detain us very long. Gentlemen will find precedents for the contention of each side of this question. The matter of apportionment has sometimes in constitutional conventions been referred to the legislative committee, and not only the matter of fixing the number in the house and in the senate, but also naming the districts from which they should come. That has sometimes been done by the legislative committee. That, however, is something that the legislative committee does not ask to do. In other words, the legislative committee does not propose to encroach upon the ground at all of the committee on apportionment and boundaries, but it seems to me that the committee on apportionment and boundaries does propose to trench upon the ground which properly belonged to the legislative committee. The simple fact that the committee on apportion-

ment and boundaries is made up of one member from each county, amounts to nothing in this question. I do not concede to that committee—although it is more numerous than the legislative committee—that they can any better fix the number of the legislators of the new State than the legislative committee. We have already conceded considerably to that committee. There was a minority report here that contended against the apportionment on making up the personnel of that committee, by a member from each county, but it was conceded that there might be some one who understood local positions or local situations, and that they might fix the boundaries and representative districts. Having conceded so much to them, they now come and ask for something further, taking the matter which distinctly belongs to the legislative committee, which there is one in existence in the Convention, and assuming to determine the number of members in the Legislature. The gentleman from Utah County, in speaking to the former resolution on this subject, said that he believed the name indicated what ought to be done in the case of that resolution; that when it was a case of fixing the boundaries and legislative districts, it properly belonged to the committee bearing that name. I hope that in this issue he will be equally consistent and that when a question is before the house as to whether the committee on legislative shall determine the number of senators, and the number of representatives, and the proportion between the membership of the lower house and the upper house, since it evidently tends to the organization of the Legislature, that he will vote with us and say that it is a matter that belongs properly to the legislative committee, as most certainly it does. The fixing of the number of members in the Legislature is one thing, the distribution of districts from which those members shall come, is quite a different thing, and the committee on

apportionment and boundaries should have charge of the latter proposition; and it is clear to my mind that the committee on legislative should have the jurisdiction over the former proposition, and I hope that this resolution will not prevail.

Mr. GIBBS. Mr. President, I hold in my hand the journal. I find on page 5 when it came to a vote to adopt a majority or minority report that the majority report was adopted. The minority report recommended that the apportionment and boundary committee consist of fifteen, but the majority report recommended that it consist of a member from each county. Now, it certainly was my understanding, when that committee reported, that the apportionment committee should have the privilege of naming the number of the future Legislature of Utah.

Mr. ELDREDGE. Mr. President, I am not so much of a precedent follower, unless precedent is in the line of reason and common sense, and when you go according to that, why then it usually meets my views, I believe; I might cite a great many instances that would support, perhaps, this proposition. If people had followed precedent and kept in the line of tradition the country would not have reached the state of progress that we find it to-day. We would have different modes of travel, we would entertain different theories in regard to the shape of this globe, and we would have had different manners of communicating our ideas, and the distance would not have been so completely obliterated as it is, and time brought to a minimum. But if we should go for precedents, we will find plenty of them to support both positions. However, in cases where the legislative committee has fixed the number, it has been in instances where there has been no apportionment committee. Where there is an apportionment committee, and legislative committee, in many instances the legislative committee has specified the

maximum and the minimum, and the apportionment committee has named the number that should constitute the senate and the house within those lines.

Mr. ROBERTS. Will the gentleman permit me a question?

Mr. ELDREDGE. Yes, sir.

Mr. ROBERTS. Do you understand that the legislative committee desires to name the districts and boundaries of the districts from which the legislators shall come?

Mr. ELDREDGE. I hardly know what they do desire.

Mr. ROBERTS. Well, then, if you will permit me, I will say that that is not their contention; they don't ask for that, but to do just what you proposed a moment ago, to fix the maximum and minimum of the membership of the Legislature and your committee to apportion them.

Mr. ELDREDGE. I understood and I believe that it was not to fix a maximum and a minimum, but was to fix, as I remember, what should constitute the senate, and what should constitute the house of representatives, if they so name it—the senate and the house of representatives, but if the gentleman has taken a different position, it is the first information I have had of the change of his position. I did agree in order to have harmony and that the matter should not be brought before this body to consume their time, to accord unto them the privilege of stating the minimum and the maximum, and that we should govern ourselves then on that line, but when I made this proposition to them, it did not meet with their approval, and they have forced the measure until it was brought upon this floor. I shall now stand squarely, Mr. President, upon what I consider to be right in the premises, and this Convention must determine whether that is so or not. The sovereign power is within the people, and it is with them to say what representation they shall have in a legislative body. Then

if it is not in the condition that we can reach the entire voice of the people we must then take that body which comes the nearest to reaching that, and if we will simply canvass the make up of the two committees, we will very readily ascertain that the committee on apportionment and boundaries lies nearer to the sovereign power than the committee on legislative power does.

I therefore hold that it is the prerogative and it is the right of that committee, not only to designate the localities from which the senators and from which the representatives will come, but it is their right to say the number, and upon this proposition I shall rest it with my colleagues upon this floor.

Mr. EICHNOR. May I ask the gentleman from Summit a question?

Mr. ELDREDGE. Yes, sir.

Mr. EICHNOR. Your committee desires to fix the number of the lower house and the senate?

Mr. ELDREDGE. How is that?

Mr. EICHNOR. Your committee on apportionment desires to fix the number of members of the lower house and of the senate?

Mr. ELDREDGE. Yes, sir.

Mr. EICHNOR. Does your committee also desire to fix the number of judges in the various judicial districts?

Mr. ELDREDGE. I wish to say, Mr. President, that is not the question under consideration.

Mr. EICHNOR. That is apportionment.

Mr. THURMAN. Question.

Mr. RICHARDS. Mr. President, I desire to ask the delegate from Summit a question, and that is, how is it that the committee on apportionment have gotten nearer to the sovereign power than the committee on legislative department? That is a matter that I desire information upon.

Mr. ELDREDGE. I will answer.

Mr. RICHARDS. I had supposed that all the delegates of this Convention

were equally near to the sovereign power. [Laughter].

Mr. ELDREDGE. I will answer it in this way, Mr. President, I believe that the gentleman from Salt Lake will concur in the proposition. The committee on legislative is composed of fifteen members, the committee upon apportionment is composed of twenty-six members. That constitutes one member from each county of the Territory of Utah, and in that it is voicing the whole people. So far as it can be reached by committee, I am sure that the gentleman from Salt Lake who asked the question, if he will consult to reason for one moment, will admit that a member from a county understands the wants and the interests of that county to a greater extent than a person that knows nothing about the county.

Mr. SNOW. Will the gentleman allow me to give him the information? Mr. Snow of Washington County is the only member of the legislative committee south of the county of Utah.

Mr. CANNON. Mr. President, and gentlemen of the Convention, I think that in discussing this question, we should be dispassionate, and the committee that has most clearly the right to perform this work is the one to which it should be assigned. In the first place, the very name of the legislative committee to my mind suggests the idea that it shall propose measures connected with the legislature that shall be transacted by the people. I believe in following precedent where we can, but I always believe that it is better to be right than to have any precedent and follow it, simply because some other fellow did wrong in the past, and when the gentleman from Summit says that the sovereign is more closely represented in the committee on apportionment, I distinctly deny that any such thing is the case. Who are you here to represent, counties or people? In the apportionment com-

mittee we have a man from each county.

Mr. ELDREDGE. Will the gentleman allow me to ask him one question?

Mr. CANNON. Certainly.

Mr. ELDREDGE. What does it take to constitute a county—what would it be without people?

Mr. CANNON. It takes to constitute a county a certain amount of land, sometimes partially settled, sometimes thickly inhabited.

Mr. THURMAN. A mere question of real estate. [Laughter.]

Mr. CANNON. When the gentleman from Summit says he believes in getting near the people and acting their sovereign power, does he consider it just to have a county which comprises from twelve to thirteen thousand voters have only the same representation as a county which comprises a few hundred? Is that the proportion with which this committee on apportionment would like to fix our Legislature? If it is, I think to my mind it is clear that it is not that committee that should consider that subject. We have in this case one man who represents the people of the largest county—the most populous, he represents those people upon the committee upon apportionment and it makes no difference whether we have one from each county or not, when you want to come near to the people, go to the representatives of the people; and in this whole question—the question before both committees should be, let us be just to the people, not to the number of acres that may be represented by any representative here upon this floor. It is a question of human rights, not of sand and banks of stone, not of water, or anything of that kind, but it is the people who want representation and those people are in proportion to their numbers, not to the size of the ground they occupy.

Mr. HOWARD. Mr. President, I do not think it is the object of the committee on apportionment and boundaries

to confine the representation to the counties, that is, one member from each county. I believe that their object is to assign at least one from each county, and enough more in proportion to get a proper representation in the several counties. There is not a man on this floor, I presume, but what is a citizen of the United States, and the citizens of the United States boast that the United States is a land of progress—a civilized people—a people of progress, a people of advancement, a people of advanced institutions; and how can we ascribe that they have got that only through the people? It is because the people represent the government. They have a voice in the formation of the government; they have a voice to say who shall be their representatives, and how many they shall be. They have a voice in saying what kind of men shall go to represent them in the law-making bodies, and it is all the people that do this. It is in every state in the Union. There is no committee; there is no part of the Union that is misrepresented, or that is not represented in Congress. But all states have equal rights according to their population. Now, when it comes to this committee here that is appointed on this proposition, that is in contention, now, I claim that the committee on apportionment and boundaries is a committee that represents the whole people of the Territory. I do not say by this that this committee of fifteen on legislative does not represent the people of the Territory. We are all here to represent the people of the Territory. But this committee on apportionment and boundaries represent the people from every county in the Territory and I believe that they ought to have the right to say what their representation shall be. I have no objection—I do not suppose that any man on that committee has any objections to that committee being increased if necessary and give Salt Lake County, which has this great amount of population

and wealth, more representation on that committee if necessary. I would have no objection to that, but I do claim that every county in the Territory should be represented on that committee, and not only that, but they should be represented in the legislative body. For that reason I hope that the motion of Mr. Snow will prevail.

Mr. KERR. Mr. President, I call for the previous question.

Mr. RICHARDS. I arise to ask the gentleman to waive his request on the previous question until I make a personal explanation. Reference was made to my remark by the delegate from Summit, and the suggestion was made that I wouldn't dispute it, or that I would concede certain statements that were made.

Mr. KERR. All right.

Mr. RICHARDS. I desire to say that I do not endorse or concur in any such idea. I do not believe that any committee of this Convention or any member of this Convention is any nearer to the sovereign power of this Territory than any other committee or any other member. Furthermore, I understand that the duties of the committees of this Convention are simply to suggest to this body, as to what in their judgment is the most proper in their respective departments, and that the whole matter will be before this Convention, and it is this Convention that represents the sovereign power, and not any committee of this Convention or any delegate of this Convention. That is my position. Now, as to upon whom devolves this duty, I care not whether the duty be performed by this committee on apportionment or whether it be performed by the legislative committee, but it seems to me there is a propriety about this. It seems to me that we ought to have, after the committees have been appointed, those committees perform the duties that usually appertain to the committees and certainly this is a duty that is usually and ordinarily devolved upon the

legislative department, and I think it should be prepared by that committee.

Mr. EVANS (Weber). Mr. President, I desire to speak in support of the resolution. It is true that the report of the committee—

The PRESIDENT. Does the gentleman continue to withdraw his motion?

Mr. KERR. Yes, sir.

Mr. HILL. I would like to be excused.

The PRESIDENT. Mr. Hill will be excused if there is no objection.

Mr. EVANS (Weber). It is quite true that the Convention will revise the action of any committee. It is equally true, that the Convention is the sovereign body, having the revisory power over the reports of all the committees, but gentlemen of the Convention, you will find that when a committee after due deliberation and investigation reports to this Convention that it will come with additional weight, especially if that report should happen to be unanimous. The gentleman from Salt Lake County states that this is a question of representation, not of sand hills and plains and mountains. Such a question as this in the early history of our country was raised when our revolutionary fathers were struggling against the tyranny of Great Britain. It was then said by the British parliament, that the colonists were living in a wild waste of country, timbered, where the war whoop of the Indians was heard and where civilization had no place.

Mr. CANNON. I would rise to a question of privilege. I would rise to explain that the gentleman does not accept my position correctly. My position, is Mr. Evans, that the question of representing the people being nearer to the sovereign people is not determined by locality.

Mr. EVANS (Weber). Exactly, that is about what I was saying, it was so considered by the English parliament, that the sovereignty was in the king

and that the center of population was there. At that time the people of the colonies were subjects of Great Britain. They were not willing to give the proper representation to this country on account of the fact that it was partially settled, uncivilized, but that great power—the greatest on earth, was humiliated by the very people whom they sought to subject. Give these counties representation in the Legislature, and who can apportion it better than the committee on representation composed of a member from each county? These barren sand hills and plains may be fruitful orchards. They might be highly cultivated and brought into subjection by man, but it is known in the history of legislation and in all governmental departments that the success that might be obtained in the arts and industries is largely measured by the benefits derived from legislation. If those counties have the apportionment of the number of members of the Legislature, composing the two houses, they will then have an equal part with the more populous and favored localities in bestowing the benefits which civilization will confer and will perhaps have the right to confer. Mr President, this thing, in a small way, is somewhat analagous to the formation of the great government which we have in these United States. The smaller states at the time of the formation of the Constitution of the United States demanded the right of equal representation with the larger states in the senate of the United States. This right, which has been stated, was denied upon the part of the representatives of the larger states, but finally a compromise was made upon that question and all states were equally entitled to representation in the higher branch of the legislature; and the question of apportionment in the lower house went by population, and so I think it ought to be in this new State. I believe in the plan which has

been adopted by many of the states to give representation to each county in the state senate. If we have as many senators as there are counties in the new State, I think each county ought to have a senator instead of a representative. They ought to have their representation in that way, and then in the lower branch of the Legislature, let them represent the people according to population. I therefore favor the resolution and hope that it will be adopted.

Mr. L. LARSON: Mr. President, it does appear to me that this is a matter that belongs to the legislative. That legislative ought to have the privilege to mention the maximum and the minimum number, as it has been agreed upon. I have understood it so from the beginning that that is the understanding between the two committees, not that the legislative committee will take in hand the apportionment of the senators and representatives, or that they would name the number—not the exact number, but the maximum and the minimum, and then the apportionment committee would have the privilege to select the proper number whichever they might agree upon. That is my understanding, and I do not now see why the committee on apportionment tries to draw out or kick out from this understanding or agreement. It appears to me that it is proper that a legislative committee should have this much to say and not leave it entirely to the committee on apportionment, which consists of one member from each county. All over this Territory many of those counties are small, and in this way it does appear to me an equitable apportionment would hardly be given. The legislative committee ought to state the number that has been agreed upon or the maximum and minimum, and then let the other committee decide as to the apportionment thereof. This is the way that I think is the proper way, and my vote will go that way.

Mr. SHURTLIFF. Mr. President, I move the postponement of this question until to-morrow morning.

Mr. SQUIRES. Mr. President, I hear no second to that motion; I would like to be heard on the question. I judge from some of the debates which we have already had upon the subject that our friends from the lower counties are very much alarmed for fear that they will not get justice, if the matter is left to the legislative committee. I judge that also from the tenure of a resolution offered by the gentleman from Washington on yesterday—that every county of the Territory should be represented by one member in the lower house. I understood also from the remarks of the gentleman from Washington, that this action is based upon a statement published on the newspapers as emanating from the chairman of the legislative committee; that statement, I believe, was something like this, that the upper house of the State Legislature should consist of fourteen members, and that the lower house should consist of twenty-seven members, and taking it for granted that the chairman of this committee is speaking for the committee—for I understand no other possible method by which they can use their information—they are afraid that the counties that are partially settled will not be properly represented. Now I call the attention of all those gentlemen to this fact that if this matter is left to the legislative committee, they won't have their work to do over twice. If this matter is left to the legislative committee, and they report to this Convention a plan forming the upper house and lower house, and stating the number of members that shall constitute each body, and this house approves or if it disapproves, and settles upon some other plan, then the committee on apportionment will have its work before them. They want to go over this whole Territory and apportion the districts twice, as they may very properly have

to do if we depend upon them to make their report first. I have just asked the question from the gentleman on my right here from Garfield, I believe, as to how many members the committee on apportionment desires in the lower house.

Mr. CHIDESTER. I did not understand you to ask that question. You asked me how many are they that desire it?

Mr. SQUIRES. We will take it that way. Representing the committee upon the floor and in debate, I ask the gentleman he desires to represent in the lower house and he informs me that they thought about forty.

Mr. ELDREDGE. Mr. President, I arise to a point of order. It is not the question now before the house as to what it is probable that shall be. The question is as to what committee should decide as to what the number shall be.

The PRESIDENT. The gentleman will confine himself to the discussion of the question.

Mr. SQUIRES. I believe I am confining myself as closely to the subject under discussion as other gentlemen have. I want to look at that question just a moment. Forty representatives from the Territory. One from every county, that takes up twenty-seven. We have twenty-seven counties in the Territory. That will leave thirteen representatives to be distributed among all the other counties in the Territory.

Mr. ELDREDGE. I again rise to a point of order. I think that the gentleman is not speaking to the question that is before the house.

The PRESIDENT. I do not think the point of order is well taken.

Mr. SQUIRES. Well, Mr. President, I don't know why my friend from Weber County took us across the Atlantic and discussed the question of King George, away back before the revolution; in discussing the question, if I am not

speaking on the subject along the lines of discussion, I do not understand it.

The PRESIDENT. The chair's ruling is that the gentleman is in order.

Mr. SQUIRES. I do not care to waste the time of this Convention in a discussion of this sort. I believe that the proposition made is not a correct one. I believe that the duty and right of the legislative committee is to organize the legislative bodies of this State, just as the judiciary committee will make a report as to the judiciary of the State and say how many there shall be and the committee on apportionment certainly won't attempt to take that duty out of their hands. I am opposed to this motion, and I trust that the gentlemen present will see it in that light and vote it down.

Mr. HOWARD. May I ask the gentleman a question that has last spoken? Is the gentleman opposed to each county having one representative?

Mr. SQUIRES. I am not at all opposed to it.

Mr. CORAY. Mr. President, I call for the previous question.

Mr. HOWARD. Will the gentleman withhold that a moment please?

The PRESIDENT. The previous question is called for.

The previous question was ordered.

The PRESIDENT. The question before the house is upon the adoption of the resolution introduced by Mr. SNOW.

The secretary will read the resolution, so that there will be no question in the minds of the gentlemen.

The secretary read the resolution.

The question being put, the chair was in doubt and a call of the roll being demanded, the vote was as follows:

AYES—53.

Allen	Hughes
Anderson	Ivins
Barnes	Johnson
Boyer	Jolley
Brandley	Kiesel
Buys	Kimball, Salt Lake
Call	Larson, C. P.

Chidester
Christianson
Clark
Coray
Corfman
Crane
Creer
Cunningham
Driver
Eldredge
Evans, Weber
Evans, Utah
Farr
Francis
Gibbs
Hammond
Hart
Halliday
Heybourne
Howard

Bowdle
Button
Cannon
Eichnor
Emery
Engberg
Goodwin
Green
Haynes
James
Kerr
Lambert
Larson, L.
Lewis
Low, Cache
Lund
Maloney
Maughan
Morris

Lemmon
Lowe, Wm.
Lowe, Peter
Maeser
Miller
Murdock, Wasatch
Nebeker
Page
Peters
Peterson, Grand
Ricks
Robertson
Robinson, Kane
Robison, Wayne
Ryan
Snow
Spencer
Thorne
Thurman.

NOES—37.

Moritz
Murdock, Beaver
Murdock, Summit
Partridge
Peterson, Sanpete
Pierce
Richards
Roberts
Sharp
Shurtliff
Squires
Stover
Symons
Thompson
Van Horne
Varian
Whitney
Williams.

The PRESIDENT. The resolution has been adopted, gentlemen.

Mr. GOODWIN. Mr. President, I understand that while absent, this Convention, in a moment of hilarity, decided that the committee on compilation and arrangement should revise the minutes daily; is that true?

The PRESIDENT. That is true, sir.

Mr. GOODWIN. I move the reconsideration of that vote.

Mr. VARIAN. I second the motion.

The PRESIDENT. You did not vote on it; you cannot do it.

Mr. IVINS. Mr. President, I would like to ask the gentleman whether he voted on that or not?

Mr. SQUIRES. Mr. President, to relieve the gentleman and for his benefit, I move a reconsideration of that order.

Mr. GOODWIN. I second that motion. I won't detain the Convention more than a moment. I once read a story of Sir Walter Scott of an old baron who could not read or write and who had sold some land and when they brought the papers for him to sign he says, "Do you take me for a blank clerk?"

Now, without confessing whether I can read or write or not, or whether the other members on that committee can or not, I want to ask this Convention if they take Mr. Thatcher, Mr. Whitney, Mr. Lambert, and myself, for "clarks." It is the duty of the clerk to keep these records and to have them right. He gets fifty per cent. more salary than any of us. It is his duty to do it himself or employ someone else, or to give up that place to someone else that can. We will have the duty of looking over the reports of all the committees in this Convention. The place was supposed to be rather honorable. Now, how are we going to keep the minutes unless we get there behind the desk? I suppose that in a moment of hilarity, as I said before, the Convention passed that resolution. I ask to have it reconsidered and that the clerk keep his own minutes.

Mr. WHITNEY. Mr. President, I was also absent temporarily from the main hall when this question was being debated or I should certainly have spoken on it then. I agree with the gentleman who has last spoken. It is a great labor that you have laid upon this committee (I think somewhat hastily and thoughtlessly), and you might just as well release us from all

other duties, as to make us minute clerks of this Convention, to compel us daily to revise these minutes and to compare them—how can we perform that duty? How much better qualified are we than any other members upon this floor to keep track of what is going on at this desk and to revise these minutes and furnish you gentlemen that you will have a correct report of it next day? It is the business of the clerks who are paid for the labor and the proper way it seems to me would have been to have elected a minute clerk competent to attend to this matter and not put it upon this committee. I do not feel that it is just or right and I trust that this motion will be reconsidered, and that we will proceed to the election of a minute clerk.

Mr. CANNON. Mr. President, I think this motion to reconsider ought to prevail, and I therefore second it.

The PRESIDENT. Gentlemen, you have heard the motion to reconsider.

The motion was carried.

The PRESIDENT. The matter is up for further consideration.

Mr. BOWDLE. Mr. President, I move the previous question. [Laughter.]

Mr. RICKS. I move we adjourn.
Seconded.

Mr. CANNON. Mr. President, I would like to ask the gentleman to withhold that for one moment.

Mr. RICKS. All right.

The PRESIDENT. The question is on adjournment.

Mr. LAMBERT. He said he would withhold it until I present this matter that I have here.

Mr. RICKS. If it is desired I will withdraw the motion, with the consent of my second.

Mr. EVANS (Utah). Mr. President, the previous question is before the house. No other question can transpire but the adjournment. We moved to reconsider and when it carried it brought that question before the assembly, and the previous question

must now be put. No other matter can be considered but adjournment.

The PRESIDENT. The question, gentlemen, before the house is upon the question as to whether this matter shall be referred to the committee on revision and compilation. Shall the debate in regard to this matter now cease?

DELEGATE. Yes.

The PRESIDENT. All who are in favor of that say aye; those opposed, no.

The ayes have it.

Now, the question is in regard to the commitment of this to the committee on revision and compilation. The matter is now before the Convention for its consideration in regard to referring it to that committee or taking it from that committee. If the chair isn't right, I would like to be corrected in this matter.

Mr. ELDREDGE. Mr. President, I move to lay the motion on the table.

Mr. EVANS (Utah). Mr. President, I have to arise to a point of order.

The PRESIDENT. I think the point of order is well taken. The question is on the recommitment of this, and I think the point of order is well taken.

Mr. ELDREDGE. Mr. President, I move to lay it on the table, which takes precedence of all other matters, except to adjourn to a day certain or to adjourn indefinitely, and should be put without debate under our rules.

The PRESIDENT. There is no second to the motion to lay on the table.

Mr. GIBBS. I second the motion.

Mr. EVANS (Utah). Mr. President, I would like to be heard on my point of order. The previous question has been ordered and when that is so ordered, the question then must be put, "the question now recurs as to whether we will make the reference to that committee or not." I am in favor of voting it down,

The PRESIDENT. The gentleman's point of order is well taken I think in regard to that matter. Gentlemen, the question is, shall the matter be referred to the committee?

Mr. ELDREDGE. Mr. President, I wish to say this, I understand that the previous question was put. Now, that cuts off all debates as regards to the reconsideration.

Mr. CANNON. Mr. President, I arise to a point of order. When the chair has ruled on this question the gentleman must take his seat or appeal from the decision of the chair.

The PRESIDENT. I ruled that the gentleman's point of order is well taken.

Mr. EVANS (Utah). Then, I will ask that the gentleman be seated, if it requires the sergeant-at-arms to do it.

The PRESIDENT. The question is, gentlemen, upon the reference of this proposition for them to revise the minutes, that is the question before the house. All that are in favor of the motion will say aye; contrary, no.

The motion was lost.

Mr. CANNON. Mr. President, I move that a special committee of three—

Mr. THURMAN. I arise to a point of order. The motion now before the house as to the engrossing and enrolling committee, as to whether that matter shall be referred to them or not.

The PRESIDENT. The gentleman is right.

Gentlemen, you have heard the motion—this was the amendment to the original motion; all in favor of this going to the committee on engrossing and enrollment will say aye; opposed, no.

The motion is lost.

Mr. CREER. I move we now adjourn.

Mr. RICKS. I second the motion.

Carried.

The Convention then at 5 o'clock p. m. adjourned.

THIRTEENTH DAY.

SATURDAY, March 16, 1895.

The Convention was called to order at 2 o'clock p. m. by President Smith.

The roll was called showing the following members present:

Allen	Lambert
Anderson	Larsen, L.
Bowdle	Lemmon
Brandley	Low, Cache
Button	Maeser
Buys	Mackintosh
Call	Maloney
Cannon	McFarland
Christianson	Miller
Clark	Morris
Coray	Moritz
Corfman	Murdock, Beaver
Crane	Murdock, Wasatch
Cushing	Murdock, Summit
Driver	Partridge
Eichnor	Peters
Eldredge	Peterson, Grand
Emery	Peterson, Sanpete
Engberg	Pierce
Evans, Weber	Preston
Evans, Utah	Raleigh
Farr	Richards
Gibbs	Ricks
Goodwin	Roberts
Green	Robertson
Hammond	Robinson, Kane
Hart	Robison, Wayne
Haynes	Sharp
Halliday	Shurtliff
Hill	Snow
Howard	Spencer
Hughes	Squires
Hyde	Stover
Ivins	Symons
James	Thorne
Johnson	Thurman
Jolley	Van Horne
Kiesel	Varian
Keith	Wells
Kearns	Whitney
Kerr	Williams
Kimball, Salt Lake	Mr. President.

Excused:

Barnes	Maughan
Boyer	Nebeker
Cunningham	Thatcher
Creer	Thoreson
Low, William	Warrum.
Low, Peter	

Mr. HART. Mr. President, I would like to be excused for the balance of the day.

Excused.

Mr. VARIAN. Mr. President, I would like to ask to be excused, I am suddenly and unexpectedly called away this afternoon, and I do not know just when I will return.

Excused.

Prayer was offered by Rev. Dana W. Bartlett, of the Congregational church.

The journal of the previous day was read by the secretary, corrected and approved.

The PRESIDENT. I am requested to excuse the committee on preamble and declaration of rights for a few minutes. They will be excused if there is no objection.

The PRESIDENT. Reports of standing committees are now in order.

The committee on printing presented a report, which was read by the secretary, as follows:

Constitutional Convention,
March 16th, 1895.

MR. PRESIDENT:

Your committee on printing beg leave to report that they have requested and received sealed bids from the publishing houses of Salt Lake City, on printing of 250 constitutional committee reports. The Star Printing Company of Salt Lake City, being the lowest bidder, we recommend that the contract be awarded to them at the rate of \$1.95 per page.

Respectfully,
RICHARD G. LAMBERT,
Chairman.

The PRESIDENT. What shall we do with the report, gentlemen?

Mr. LAMBERT. I move that it be adopted.

Carried.

The secretary then read as follows:

Constitutional Hall,
March 16th, 1895.

Mr. President and Members of the Convention:

We, your committee on accounts and expenses, beg leave to report as follows:

Expenses of Convention up to and including Friday, March 15th, 1895, \$8,672.51; balance on hand, \$21,327.50. Above report does not include expense of printing.

A. C. LUND,
Chairman.

The PRESIDENT. What will you do with the report, gentlemen?

Mr. SQUIRES. Mr. President, I understood these reports were to be made when called for, not daily. I move it be placed on file.

Carried.

The report of committee on apportionment and boundaries:

The secretary then read as follows:

MR. PRESIDENT:

Your committee on apportionment and boundaries recommend that file No. 83 on boundaries be adopted by the Convention. We also recommend that file No. 79 be referred to the committee on municipal corporations. Also that file No. 87 be laid on the table, as it is covered by file No. 83.

ALMA ELDREDGE,
Chairman.

Mr. HAMMOND. Mr. President, I move it be adopted.

Mr. SQUIRES. Mr. President, there is a proposition here to adopt something. I would like to know what it is we are to adopt? I would like to know what it is the committee wants the Convention to adopt?

The PRESIDENT. After it is read, I suppose it goes to the committee of the whole proper. Will we have this read?

Mr. SQUIRES. It depends, Mr. President, upon whether it is a matter to be inserted in the Constitution. We do not know what this file is until we have it read.

Mr. BUTTON. Mr. President, I move that it be read.

The PRESIDENT. It will be read if there is no objection.

The secretary then read as follows:

Commencing at a point formed by the intersection of the thirty-second degree of longitude west from Washington with the thirty-seventh degree of north latitude, thence due west along said thirty-seventh degree of north latitude to the intersection of the same with the thirty-seventh degree of longitude west from Washington; thence due north along said thirty-seventh degree west longitude to the intersection of the same with the forty-second degree of north latitude; thence due east along said forty-second degree of north latitude to the intersection of the same with the thirty-fourth degree of longitude west from Washington; thence due south along said thirty-fourth degree of west longitude to the intersection of the same with the forty-first degree of north latitude; thence due east along said forty-first degree of north latitude to the intersection of the same with the thirty-second degree of longitude west from Washington; thence due south along said thirty-second degree west longitude to the place of beginning.

Mr. SQUIRES. Mr. President, I move this matter be referred to the committee on printing to be ordered printed in the minutes.

Mr. HILL. I move that that be referred to the committee of the whole.

Mr. PIERCE. Mr. President, I would like—

The PRESIDENT. Is there a second to Mr. Squires' motion?

Mr. PIERCE. I would like to have the report of the committee read again.

The secretary read the report.

Mr. PIERCE. Will you indicate what the number of the file was?

The SECRETARY. The file that I read was number 83.

Mr. PIERCE. That is the one that is to be adopted?

Mr. EVANS (Weber). Mr. President, rule 19 makes the disposition of this matter without any action of the Convention.

(Reads rule 19.)

I arise to a point of order; what is the gentleman's motion?

The PRESIDENT. That is the rule, gentlemen; the point of order is well taken.

Mr. PIERCE. Mr. President, there is quite a number of other points that this committee will report. As far as this matter goes, it will follow the rule, as to the other points that it recommends be referred to the committee on municipal corporations, those matters should not go to the printing committee nor the committee of the whole. Will you read the other propositions?

The secretary read file No. 79.

Mr. PIERCE. I move you that that part of the committee report which recommends that this file be referred to the committee on municipal corporations be adopted and a reference made.

Carried.

Mr. PIERCE. Mr. President, I move that that part of the committee report which recommends that file No. 87 lie on the table be adopted.

Carried.

Mr. HOWARD. Mr. President, I wish to be excused.

The PRESIDENT. If there is no objection the gentleman will be excused.

The introduction of ordinances and propositions for insertion in the Constitution.

Mr. CANNON. Mr. President, I move that all propositions received, unless otherwise called for, under suspension of the rules, be read by their titles twice and referred to the appropriate committees.

Carried.

Mr. Corfman introduced a proposition for insertion in the Constitution relative to the seat of government (file No. 89), which was read by the secretary as follows:

Section 1. The Legislature shall have no power to change or locate the seat of government of this State; but the question of the permanent location of the seat of government of the State shall be submitted to the qualified electors of the State at the first general election held after five years from the date of the adoption of this Constitution. A majority of all the votes cast at said election upon said question shall be necessary to determine the permanent location of the seat of government

for the State; and no place shall ever be the seat of government which shall not receive a majority of the votes cast on the matter. In case there shall be no choice of location at said first election, the Legislature shall at its first regular session after said first election, provide for submitting to the qualified electors of the State the question of choice of location between the three places for which the highest number of votes shall have been cast at the said first election. Said Legislature shall provide further, that in case there shall be no choice of location at said election, the question of choice between the two places for which the highest number of votes shall have been cast, shall be submitted in like manner to the qualified electors of the State at the next ensuing general election; provided, that until the seat of government shall have been permanently located as herein provided, the temporary location thereof shall remain at Salt Lake City.

Section 2. When the seat of government shall have been located, as herein provided, the location thereof shall not thereafter be changed, except by a vote of two-thirds of all the qualified electors of the State voting on that question, at a general election, at which the question of the location of the seat of government shall have been submitted by the Legislature. The Legislature shall make no appropriations or expenditures for capitol building or grounds until the seat of government shall have been permanently located and the public buildings are erected at the permanent capital, in pursuance of the law.

Said proposition was read a second time by its title and referred to the committee on public building and State institutions not educational.

Mr. Kiesel introduced a proposition for insertion in the Constitution relative to corporations (file No. 90), which was read a first and second time by its title, and referred to the committee on corporations other than municipal.

Mr. Chidester introduced a proposition relative to the protection of bona fide settlers on school lands of this State (file No. 91), which was read a first and second time by its title and referred to the committee on education and school lands.

Mr. Robison (Wayne) introduced a proposition for insertion in the Constitution on forestry (file No. 92), which

was read a first and second time by its title and referred to the committee on public lands.

Mr. Bowdle introduced a proposition for insertion in the Constitution relative to giving the Legislature power to control rates to be charged by railways and other corporations (file No. 93), which was read a first and second time by its title, and referred to committee on corporations other than municipal.

Mr. Thompson introduced a proposition for insertion in the Constitution relative to regulating corporations (file No. 94), which was read a first and second time by its title.

Mr. THOMPSON. Mr. President, I move that it be referred to the legislative committee. That is the proper committee.

The PRESIDENT. If there is no objection it will be so referred.

Mr. LAMBERT. Mr. President, some days since there were some strictures put upon the printing. That day, after our adjournment, I received this communication which I have in my hand; as chairman of the printing committee, I would like to have the privilege of reading it.

(Communication read.)

Mr. WHITNEY. Mr. President, may I ask what order of business we have reached?

The PRESIDENT. We are on motions and resolutions.

Mr. CANNON. Mr. President, I move we adjourn.

Seconded.

Mr. WELLS. Mr. President, I desire to ask a question. I think it was three days ago that we ordered printed a list of the standing committees, rules of the Convention and the Enabling Act. I have not received a copy of that yet, although I would like very much to get one.

Mr. LAMBERT. The printer contracted to have them here at 2 o'clock to-day. He just telephoned they will be here in a few minutes.

Mr. WHITNEY. Mr. President, the reason I ask what order of business we had reached, is because I want to make a motion. I trust we have not passed that yet.

The PRESIDENT. We have passed it; there is a motion to adjourn.

Mr. WHITNEY. Before I could get the floor I was confronted with that.

Mr. CANNON. Mr. President, I will withdraw my motion to adjourn in order to let the gentleman present his matter.

Mr. WHITNEY. I move that the committee on rules take into consideration the advisability of providing an additional clerk to assist the clerk of the Convention. If I may have a second I will state my reasons.

Mr. HILL. I second the motion.

Mr. WHITNEY. In my remarks of yesterday, I do not wish to be reported as making any reflections or saying anything to the discredit of the clerks of the Convention or of the officers in any way. I believe the corps of clerks is an overworked body. This Convention is two or three times the size of the legislative body, and yet we have provided to handle the business that comes up here, only one set of clerks, and in speaking as I did, it was not to find fault with the clerks so much as to show that another clerk was needed. I suggest that, instead of putting this labor upon the committee, the labor of revising the minutes—upon the committee on compilation and arrangement, or any other committee, the proper way would have been to elect another clerk—that is, an additional clerk, to render assistance that I think they need; I therefore, make this motion, disclaiming any intention to reflect upon the clerks or to wound the feelings of anyone, and I move that this matter be taken under consideration, for I think you will find out before you get through that the clerks need more assistance.

Mr. EICHNOR. Mr. President, I think this motion should pass. Mr. Whitney

is certainly right when he spoke of this large body having only as many clerks as we had in our Legislature where there are possibly twelve in the upper house and twenty-four in the lower. If you examine the proceedings of various constitutional conventions, which approach the number that we have in our Convention, you will find that they have about double the number of clerks that we have. This is certainly not a motion for extravagance; it is certainly a motion that every member should vote for. It is a fact that the minutes of our sessions, if they are ever published in book form—you will find some of the proceedings there, that no man on earth can tell what some of the members meant on this floor, when they got up and attempted to raise parliamentary points and introduced motions. I will defy any man, if those minutes are ever published, to find a worse jumble, than some of the delegates made in their motions, in any other Convention. I believe a great deal of this carping and criticism should apply to us. A great number get up—some of us get up and speak before we are recognized by the president. We fire in a motion before we are recognized. Let everything be done decently and in order; and I am in favor of this motion to give the clerks more assistance. And if they need another one besides this man, I am willing to vote for another one.

Mr. ELDREDGE. Mr. President, I move that we adjourn.

Mr. CANNON. That is not seconded.

SEVERAL DELEGATES. Second the motion.

Mr. EICHNOR. Vote it down.

The PRESIDENT. Is the motion to adjourn seconded?

Mr. WHITNEY. The motion was seconded that I made.

The PRESIDENT. A motion to adjourn is always in order.

Mr. VAN HORNE. Mr. President—

The PRESIDENT. No discussion on this.

Mr. VAN HORNE. I understand there was a motion to adjourn, that was withheld for the announcement of committee meetings. I arise to a point of order. Any motion while that motion is pending is out of order.

The PRESIDENT. A motion to adjourn is in order at any time.

Mr. VAN HORNE. I understand, but I understand that a motion to adjourn was made by Mr. Cannon and was withheld in order that the announcement of committee meetings might be made.

Mr. SQUIRES. Mr. Cannon distinctly withheld his motion to adjourn to allow Mr. Whitney to make this motion as he has made it.

Mr. THURMAN. Mr. President, I make the point that a gentleman or a member on this floor cannot withhold a motion for another motion to intervene. If he withholds his motion, he withdraws it altogether. He can only make it by renewing it again.

Mr. CANNON. Vote it down.

The question on the motion to adjourn was then put and lost by a rising vote of 23 ayes to 53 noes.

Mr. CANNON. Mr. President—

The PRESIDENT. The motion in order is Mr. Whitney's motion to employ more help.

Mr. CANNON. I move the previous question.

Mr. THURMAN. I would like to ask for information, if the president—

Mr. EVANS (Weber). Mr. President—

Mr. THURMAN. It is for the election of a clerk or a reference of the matter to a committee.

Mr. WHITNEY. To refer it to a committee.

The PRESIDENT. The question is on the previous question.

Mr. EVANS (Utah). Has there been any second? I did not hear it.

The PRESIDENT. No, I guess there wasn't. I don't call it to mind. Mr. Evans has the floor.

Mr. EVANS (Utah). Mr. President,

perhaps I am under a misapprehension of this motion. Is the motion that you made, Mr. Whitney, to refer this matter to a committee or is it to proceed to the election of another clerk?

Mr. WHITNEY. I will re-state it.

Mr. EVANS (Utah). I will be pleased to hear it.

Mr. WHITNEY. My motion was to this effect, that the committee on elections take into consideration the advisability of providing an additional clerk to reinforce those already in office.

Mr. EVANS (Utah). Mr. President, I am opposed to the motion. I have not been convinced yet that we need more committee clerks. Reference has been made here by the gentleman from Salt Lake that we have been speaking one, two and three at a time. That may be true, but we ought not have done so. We have rules here and we ought to enforce them, and after we have done that, and we shall find then that our committee clerks are not able to transact the business of this Convention, then I shall be in favor of it, but not until then. Our rules say here—

Mr. CANNON. Mr. President, I arise to a point of order.

The PRESIDENT. State the point of order.

Mr. CANNON. My point of order that the motion is not to appoint another committee clerk, but an assistant clerk for our secretary. The gentleman is speaking of the committee clerks.

Mr. EVANS (Utah). It is a minute clerk. That is what I am objecting to.

The PRESIDENT. The gentleman moved that the matter be referred to the committee on rules to consider the propriety of employing additional help to the clerks.

Mr. EICHNOR. Mr. President, I want to ask a question.

The PRESIDENT. Mr. Eichnor has the floor if the gentleman is through.

Mr. EVANS (Utah). I just yield for the question only.

Mr. PIERCE. Mr. President, I arise

to a point of order. Mr. Eichnor has spoken once on this question and I have had no chance.

The PRESIDENT. Mr. Eichnor will take his seat. The point of order is well taken.

Mr. EICHNOR. I am not endeavoring to speak, I simply want to ask him a question.

The PRESIDENT. The gentleman will ask his question.

Mr. EICHNOR. I will ask the gentleman from Utah County, if the delegates do not observe strict parliamentary rules and laws, whether it is right to criticise the clerks that sit up there for their work?

Mr. EVANS (Utah). I decline to answer the question, for the reason that it has no bearing on this matter. Rule No. 8 says: Any member rising to debate, give a notice, make a motion or present a paper, shall not proceed until he shall have addressed the president, and been recognized by him as entitled to the floor. I submit to you, Mr. President, that if that rule shall be enforced, as I believe it ought to be, that no one will be speaking only he who has a right to speak, and it is just as easy for our clerk to take the minutes from one man speaking upon the question in a body of this kind, as it is if there were but five persons there talking to him; and I think that the argument that has been advanced by reason of this large body, does not have any good effect. As I stated before, however large the body may be, our rules provide that it must be done in order, and if this rule shall be enforced, there is no need of an assistant clerk. I believe we have plenty as it is, and I am opposed to the motion.

Mr. PIERCE. I am in favor of Mr. Whitney's motion and for this reason, it only involves the question of an investigation of the point whether we need other clerks or not.

Mr. WHITNEY. That is it.

Mr. PIERCE. Before this Convention

is called upon to pass upon this question, this committee is asked to report on the advisability of it. We cannot now, in this Convention, state whether these clerks are working more than they should, or whether we put more duties upon them than should be put upon them, until after we have had an investigation, and it is not fair—it is manifestly unfair, gentlemen of this Convention, to criticise our clerks, who, I believe, are doing the best they can, until this matter has been referred to the committee, and all this motion of the gentleman from Salt Lake contemplates is the reference to a committee, and it is a proper question, and I think it should be passed, and then we can determine whether or no we should have the extra clerk. I am in favor of it, and do not think that any opposition should be put into it.

Mr. GOODWIN. Mr. President, I am in favor of the motion, and I wish to explain that if I said anything yesterday that seemed like a censure to anybody, I meant it yesterday for Mr. Eichnor and Mr. Pierce. [Laughter.]

Mr. CANNON. I move the previous question.

Seconded.

The PRESIDENT. The previous question is called for, is there a second?

Mr. BUTTON. Mr. President, there is one thing—

The PRESIDENT. Mr. Button you are out of order.

Mr. BUTTON. I arise to a point of order. The point of order has just been stated by the gentleman now. Here is a motion that comes up and may—

Mr. EICHNOR. Mr. President, I arise to a point of order. He was not recognized by the chair.

Mr. BUTTON. Nor was the gentleman who made the motion.

The previous question was ordered.

The PRESIDENT. All that are in favor of the motion of Mr. Whitney of referring this matter of another clerk

to the committee on rules, will say aye; those opposed, no.

Carried.

Mr. CANNON. I move we adjourn.

Carried.

The Convention then at 3:07 o'clock p. m. adjourned.

FIFTEENTH DAY.

MONDAY, March 18, 1895.

The Convention was called to order at 2 o'clock p. m. by President Smith.

The secretary called the roll and the following named members were found in attendance:

Adams	Lambert
Allen	Larson, L.
Anderson	Larson, C. P.
Barnes	Lemmon
Bowdle	Lewis
Boyer	Low, William
Brandley	Low, Peter
Button	Low, Cache
Buys	Lund
Call	Maeser
Cannon	Mackintosh
Chidester	Maloney
Christianson	Maughan
Clark	McFarland
Coray	Miller
Corfman	Morris
Crane	Moritz
Creer	Murdock, Beaver
Cunningham	Murdock, Wasatch
Cushing	Murdock, Summit
Driver	Nebeker
Eichnor	Page
Eldredge	Partridge
Emery	Peters
Engberg	Peterson, Grand
Evans, Weber	Peterson, Sanpete
Evans, Utah	Pierce
Farr	Preston
Francis	Raleigh
Gibbs	Richards
Goodwin	Roberts
Green	Robertson
Hammond	Robinson, Kane
Hart	Robison, Wayne

Haynes	Ryan
Halliday	Shurtliff
Heybourne	Snow
Hill	Spencer
Howard	Squires
Hughes	Stover
Hyde	Strevell
Ivins	Symons
James	Thompson
Johnson	Thoreson
Jolley	Thurman
Kiesel	Van Horne
Keith	Warrum
Kearns	Wells
Kerr	Whitney
Kimball, Salt Lake	Williams.
Kimball, Weber	

Prayer was offered by Rev. J. D. Gillilan, of the Methodist Episcopal Church. The minutes of the thirteenth day's session were read, corrected and approved.

Petitions and memorials.

Mr. WHITNEY. Mr. President, I hold in my hand a memorial of the Woman's Suffrage Association of Salt Lake City. I move that it be read in full and referred to the committee on elections and rights of suffrage.

The secretary read the same as follows:

The undersigned delegates of the Woman's Suffrage Association of Salt Lake County, appointed to represent that association in presenting the memorial to your honorable body, respectfully state, that the women of said association, together with all the women of the Territory of Utah, are at present deprived of the privileges of American citizenship and the right of suffrage, notwithstanding the majority of them are native born citizens of the United States. We further represent that though amenable to the laws and pay taxes for the support of the municipal and territorial government exactly the same as male citizens, yet we are not permitted a voice or vote in the levying or expenditure of said taxes nor in making the laws by which we are governed.

We further represent that though a few women may not be willing to exercise the right of suffrage, we believe that the majority of the women of this Territory desire and will conscientiously use this great privilege of citizenship,

and that it is not just that the large number who desire it should be longer deprived of their rights as citizens, because of the few who are indifferent.

We rejoice that both of the great political parties in Utah have declared in favor of equal suffrage, and we now ask that the pledges made to the women of Utah be kept and that the new State of Utah may have a Constitution framed upon the basis of justice and privileges for all citizens.

Believing that you are actuated by sentiments of true liberty and justice and because you have solemnly pledged yourselves to the enfranchisement of the women of this Territory, we respectfully request that you insert a clause in the Constitution of the State of Utah, conferring upon women the right of suffrage, and your memorialists will ever pray.

Ellen B. Ferguson, Elizabeth J. MacFarlane, Mary E. Irvine, May P. Silver, Jemima R. Midgley.

The memorial was referred to the committee on elections and rights of suffrage.

Mr. RICHARDS. Mr. President, I have the honor to present a memorial from the Suffrage Association of Utah Territory, asking for the equal suffrage for men and women. I ask that the memorial be read and referred to the committee on elections and rights of suffrage.

The memorial was read as follows:

To the Honorable Members of the Constitutional Convention of Utah:

We, your petitioners and memorialists representing the great majority of the women of Utah, and more particularly as the official representatives of the great woman organizations of Utah, numbering in aggregate membership over thirty-five thousand, viz:

The Utah Suffrage Association, auxiliary to the National American Woman's Suffrage Association, the National Woman's Relief Society, and the Young Ladies' National Mutual Improvement Associations, these thousands of women standing in a general way, or in virtue of direct official relationship, as our constituents, we your memorialists, speak in their names, and in behalf of the women of Utah, herewith present the woman's cause.

It is a matter of congratulation that in these closing years of the nineteenth century, the cause of woman can, without the stigma of partisanship, be laid before a body of chosen men to the work

of creating a new sovereignty within the galaxy of states as an equal member of the indissoluble Union. The men of Utah, in their respective parties, have, with equal unanimity, said that woman shall be accorded equal rights and privileges of citizenship, that sex distinction shall no longer be a ban and a bar to equal opportunity with men to exercise the God given power and capabilities which women are endowed for purposes of equal self government and equal enjoyment of the inalienable rights of life, liberty, and the pursuit of happiness. We take it that the men of Utah have spoken honestly, sincerely, conscientiously, as men, to that equally large number of citizens who are now disfranchised, who are now deprived of authority to speak a word or cast a vote in the framing of an organic law which determines their personal and property rights, their civil and political status in the social organism.

We are glad to feel assured that our brothers are dealing honestly and righteously with us, and that they will ordain truth and justice in the name of God and humanity; and we are happy, too, in the belief that these overtures made by the men of Utah, are in line with the onward march of civilization, that the bow of promise is rising higher and brighter in the heavens of human hope, that with the elevation and emancipation of woman, "the plans of God are ripening with the process of the suns." And we say to you that we contemplate no rival sovereignty, no sphere peculiar and apart, no conflicting regime or antagonistic legislation, no hostile policy or divided councils. No, the woman movement means only true human progress, it means higher and truer harmony, more genuine and enlightened fellowship, more real co-operation, more vital and perpetual union. The key and the clue to all true progress is the large harmony that the Infinite Spirit is breathing into the rising grandeur of human development.

As constitution makers, as framers of the chart that shall guide us on what we hope to be a long and prosperous future, you will cherish in your deliberations a sacred regard for the principles of liberty, for those undying axioms that we have laid at the foundations of our temple of freedom. We have thousands of women in Utah who are property holders and taxpayers in their own right. Probably no other state furnishes as large a roll of taxpaying women. "Taxation without representation is tyranny." This was the key note, the bugle call of the revolutionary fathers in their struggle for liberty. Says James Otis, in 1764, in one of the pamphlets that made our independence,

"The very act of taxing, exercised over those who are not represented, appears to me to be depriving them of one of their most essential rights. For one civil right is not worth a rush after a man's property is subject to be taken from him at pleasure without his consent. If a man is not his own assessor in person, or by deputy, his liberty is gone." Hon. Charles Sumner, in his speech on March 7th, 1866, endorses the declarations of James Otis, and he says, "Stronger words for universal suffrage could not be employed." His argument is that if men are taxed without being represented they are deprived of essential rights.

These axioms are as clear as sunlight, and it would be in violation of the fundamental principles of our institutions for the men of Utah to frame laws whereby women propertyholders shall be taxed without their consent, given through such representation as is accorded to men as a condition precedent to their being taxed.

Again, all our constitutions, either in terms or in substance, commence their preambles with the comprehensive formula, "We the people." Our government, "of the people, for the people and by the people."

Whatever the status of women may be, they are at least a part of the people. As such, the government provides a place for them and by no form or principle of reasoning can they be deprived of such rights and privileges as inure to men under government, without at the same time destroying the natural rights which men hold for themselves to be inviolate.

Furthermore, by the Declaration of Independence, the existence of government hinges upon "the consent of the governed." This consent is to be given through the form of provisions whereby governments are made and administered. This consent goes to the framing of the constitution, to the enactment of laws under that constitution and to the administration of those laws; and there can be no consent without representation. Hence, the disfranchisement of half the people and a large proportion of taxpayers and creators of wealth is tyranny pure and simple, even though it be under the shadow and in the name of liberty and free government.

But we seek not to weary you with the recital of axioms; what we desire is, that we may uphold your hands in revealing them to the world and making them effective in human government. Jefferson laid a deep foundation for human freedom in planting equal rights at the roots of the tree of liberty; but it was given to Lincoln to make these principles most effective, and to cause

them to shine as the noonday sun in the firmament of American history.

He said, "I believe the day is not far distant when woman will wield the ballot to purify and ennoble politics. I go for all sharing in the government who assist in bearing its burdens, by no means excluding the female."

To you, gentlemen of the Utah Constitutional Convention, it is given to make other deep and fundamental principles of our government effective in the administration of law. We do not doubt your ability and willingness to do so. But we come to greet you in behalf of the women of Utah to strengthen your hand and to assure you that we are keenly alive to the importance and far reaching consequences of your labor in our behalf.

And above all we would impress you with the fact that the women of Utah are by no means indifferent spectators of the drama that is now being enacted. We believe that every age has its rising and its setting sun. We believe that the woman movement has come because the sun of our civilization has thrown across our social horizon the dawning of a new and more glorious era in the history of man. We believe that "through the ages an eternal purpose runs," and that in the full enfranchisement of women there will come a larger, truer sovereignty, a national conscientiousness in fuller harmony with the temporal welfare and happiness of man. We believe that both men and women will be benefited morally, sociably, and economically. We believe that now the time clock of American destiny has struck the hour to inaugurate a larger and truer civil life, and the future writers of Utah history will immortalize the names of those men who, in this Constitutional Convention, define the injustice and prejudice of the past, strike off the bonds that have heretofore enthralled woman, and open the doors that will usher her into free and full emancipation.

We, therefore, ask you to provide in the Constitution, that the rights of citizens of the State of Utah to vote and hold office shall not be denied or abridged on account of sex, and that male and female citizens of the State shall equally enjoy all civil, political, and religious rights and privileges.

Signed. Emmeline B. Wells, President of the Woman's Suffrage Association of Utah, Emily S. Richards, Vice President; Zina D. H. Young, President of the National Woman Relief Society, Jane S. Richards, Vice President; Ellen B. Ferguson, Salt Lake County Suffrage Association; Electa Bullock, Utah County Association; Lucy A. Clark and Jennie Nelson, Weber County Association; Celia Bean, Sevier; Silvia L. Cox, San-

pete, M. A. Grover, Juab; M. H. Cannon, Salt Lake; E. T. Stevenson, Salt Lake; Louisa L. Wright, Joanna Milton, Cora G. Carlton, Isabella Horne, Ada Williams, Kate S. Hilliard, S. E. Anderson, Sarah A. Howard, Elizabeth J. MacFarlane, Mary E. Irvine, Jemima B. Midgley, Lydia D. Alder, Maria M. B. Horrocks, E. K. Peke, Rebecca H. Boolan, Margaret A. Caine, Ella W. Hyde, Jane A. Hatch, Rose E. Hatch, Emily Stevenson, Priscilla J. Riter, Mattie A. Brieger, Aurelia S. Rogers, Monica Secrist, Harriet A. Badger, Mary A. Freeze, Mary Elizabeth H. Shipp, Mary J. Holden, Josephine Howard, Annie Farley, Ellen C. Clawson, Mrs. Katie L. Paxman, Mary L. Moser, Susan Grant, Sarah H. Roberts, Harriet Beers, Eliza Jenkins, Hannah Jenkinson, Christina Atley.

The memorial was referred to the committee on elections and rights of suffrage.

Mr. HART. Mr. President, I have a petition here from 750 of the residents of Cache Valley. I move that the petition be read and referred to the committee on corporations other than municipal.

The secretary read the same as follows:

To the Constitutional Convention of the Territory of Utah:

GENTLEMEN.—The undersigned respectfully petition your honorable body to consider the advisability of placing in the Constitution of the State of Utah a clause to prohibit the forming of trusts or combines to control the prices of the necessities of life.

The petition was referred to the committee on corporations other than municipal.

Mr. PIERCE. Mr. President, I ask the Convention to excuse the committee on education and public lands for a while. They desire to continue the work of the morning.

The PRESIDENT. If there is no objection the committee will be excused.

The committee on printing submitted the following report:

Convention Hall, March 18th, 1895.

MR. PRESIDENT:

Your committee on printing beg leave to report that they have received bids from bookbinders of the city for the

making of covers or holders for the minutes and reports of the Convention, and recommend that the contract be awarded to Kelly & Co., who offer to make 220 for \$32 50.

LAMBERT,
Chairman.

The report was adopted.

Mr. WELLS. Mr. President, I beg leave to submit the report of the committee on preamble and declaration of rights, and in doing so, I wish to explain that while the committee have given the subject as much consideration as time would permit, they have necessarily been somewhat hurried and hampered by the knowledge or the understanding that this Convention expected them to submit the result of their work first; that is, before any of the other committees had presented theirs, so that we are free to admit that the instrument is not perfect. We do not claim perfection for it by any means. We are aware that the instrument will be subjected to the fusilade of a hundred guns, and we have endeavored to construct it with a view to withstanding such bombardment, but, if it does not withstand it, we have this consolation, gentlemen, that like gold in the furnace, it will be purified and improved by the fire. And before you begin your bombardment, I desire to say that the committee have endeavored to keep this fact well in mind, that in their opinion a constitution should not be a code of laws, but rather the magna charta of our liberties, upon which the laws may be afterwards founded. If there are rights dear to the people of Utah which we have not enumerated, we hope that you gentlemen will discover and insert them. And if, on the other hand, we have inserted rights which ought to be left to the Legislature, we shall not be offended if they are stricken out. Our desire is that the people of this commonwealth shall have all the rights and all the privileges enjoyed by the people of the other states of this Union, all the rights which a free and enlightened people,

who have been too long kept in territorial bondage, have the right to expect. And now, gentlemen, we recommend our work to you in the hope that it may meet your wishes and the needs of the people of our great Territory and the future State of Utah, and in the further hope that when this Convention shall have finished its work, the declaration and preamble, as well as the entire Constitution, may be as perfect as it is possible for human brain and ingenuity to make it; a Constitution that may be looked to by those states which may follow us into the Union as a model for them to pattern after, one that it may be said of that nothing need be added to it and nothing taken away. I have one request, gentlemen, to make, and that is that Mr. Whitney, of Salt Lake County, who has all along acted as the secretary of our committee, and who is therefore entirely familiar with the construction and rhetoric of the document, be permitted to give it its first reading.

The PRESIDENT. Under the rule it goes to the committee of the whole.

Mr. EVANS (Weber). Mr. President, under the rule, it is ordered printed and referred to the committee of the whole.

Mr. WELLS. Mr. President, we don't insist upon this being read now, if the Convention don't wish it. But if it is read now, that Mr. Whitney do the reading. That is all.

The report was read by the secretary by its title and under the rules went to the committee on printing.

Mr. VAN HORNE. Mr. President, that being the initial work of our Constitution, I move you that the rules be suspended and that the report of the committee on preamble and declaration of rights be read in full in this Convention.

Mr. KEARNS. I second the motion.

Mr. HART. Mr. President, I would prefer to see that go in the regular order to the committee of the whole. We will have that printed, if it is not

already printed, and we can read it at our leisure. It is not worth our while, unless we are going to consider this in the committee of the whole now to have it read.

Mr. EVANS (Weber). Mr. President, it seems to me that it would be an entirely useless thing to have this read before this body. It will be printed. This is an instrument which ought to be taken by each member and carefully studied. A mere casual reading of the instrument at this time would only occupy considerable space and at the same time would be purposeless. I am informed that the committee have taken steps to have it printed and that it is already in type. I think this is a matter which ought to be studied carefully by the members. If every report is going to take this course, it is going to consume a long space of time.

Mr. SQUIRES. Mr. President, if what the gentleman from Weber has said is true, that this report is in type, I move as an amendment to this question that it be distributed to the members so that we may have time to examine it.

Mr. LAMBERT. Mr. President, I see by looking at our rules that every ordinance, proposition or other matter reported by any committee for insertion in the Constitution, shall, without further orders, be printed and referred to the committee of the whole. I think it is a waste of time to read this here now.

The amendment was agreed to.

Introduction of ordinances and propositions for insertion in the Constitution.

Mr. CHIDESTER. Mr. President, I move that the rules be suspended in all of these cases and that the propositions be read by their titles and referred to the proper committees.

The motion was agreed to

Mr. Maloney introduced a proposition relative to the committee on judiciary (file No. 99), which was read a first

and second time by its title and referred to the committee on judiciary.

Mr. Maeser introduced a proposition for insertion in the Constitution relating to a system of public instruction (file No. 98), which was read a first and second time by its title and referred to committee on education and school lands.

Mr. Bowdle introduced a proposition for insertion in the Constitution relative to exemptions of homesteads and other property to heads of families (file No. 100), which was read a first and second time by its title.

The PRESIDENT. It will go to the committee on judiciary.

Mr. EICHNOR. Mr. President, it is certainly an error to refer that to the judiciary committee. I am not a member of the judiciary committee, but it is certainly an error to refer it to the judiciary. If you refer that to the judiciary, you might refer every proposition to the judiciary and let them make the laws.

Mr. CANNON. What committee would you refer it to?

Mr. EICHNOR. I think it goes to Mr. Cannon's committee, revenue, taxation and public debt.

Mr. HART. Mr. President, other propositions on the same subject have gone to the committee on judiciary. I think there should be a uniformity.

Mr. EVANS (Weber). Mr. President, I admit in legislative bodies it ought to go to the committee on judiciary, but in this constitution making, the judiciary will have absolutely nothing to do with exemptions. I move that it be referred to the committee on revenue, taxation and public debt.

The motion was agreed to.

Mr. Bowdle introduced a proposition providing liens of mechanics and others (file No. 101), which was read a first and second time by its title and referred to the committee on labor and arbitration.

Mr. Morris introduced a proposition

relative to permanent location of the capital (file No. 102), which was read by the secretary as follows:

Section 1. The city of Salt Lake is hereby declared to be the seat of government of this State and shall so remain until changed by law; but no law changing the seat of government shall be valid or binding unless the same be approved and ratified by a majority of the qualified voters of the State voting therefor at a general election, under such regulations and provisions as the Legislature, by a two-thirds' vote of the members elected to each house, may provide, submitting the question of change to the people.

Mr. THURMAN. What constitution is that taken from?

The SECRETARY. No reference is made.

The resolution was referred to the committee on public buildings and state institutions not educational.

Mr. Strevell introduced a proposition regarding the election of United States senators (file No. 103), which was read by the secretary as follows:

It shall be the duty of the Legislature to elect United States senators in conformity with the Constitution and laws of the United States during the first thirty days of the session of the Legislature at which a senator or senators are to be elected.

The proposition was read a second time by its title and referred to the committee on legislative.

Mr. Clark introduced a proposition relative to exemption from taxation (file No. 104), which was read a first and second time by its title and referred to the committee on revenue, taxation and public debt.

Mr. Symons introduced a proposition relative to taxation (file No. 105), which was read a first and second time by its title, and referred to the committee on revenue, taxation and public debt.

Mr. Cushing introduced a proposition relative to the veto power of mayors, (file No. 106), which was read a first and second time by its title and referred to the committee on municipal corporations.

Mr. Cushing introduced a proposition relative to the indebtedness of cities (file No. 107), which was read a first and second time by its title and referred to the committee on municipal corporations.

Mr. CANNON. Mr. President, I think this proposition ought to come to the committee on revenue, taxation and public debt. I think it especially applies to that. I would ask if the gentleman has any reasons for requesting it to go to the committee on municipal corporations?

Mr. CUSHING. I would prefer it to go to the committee on municipal corporations.

The PRESIDENT. If there is no objection it will go to the committee on municipal corporations?

Mr. Shurtliff introduced a proposition requiring the county officials to file sworn statements of moneys received and disbursed (file No. 108), which was read a first and second time by its title and referred to the committee on municipal corporations.

Mr. Stover introduced a proposition relative to poll tax (file No. 109), which was read a first and second time by its title and referred to the committee on revenue, taxation and public debt.

Mr. Kimball, of Salt Lake, introduced a proposition relative to equitable arbitration to settle difficulties between employers and employes (file No. 110), which was read a first and second time by its title and referred to the committee on labor and arbitration.

Mr. Miller introduced a proposition relative to irrigation (file No. 111), which was read a first and second time by its title and referred to the committee on water rights, irrigation and agriculture.

Mr. Miller introduced a proposition relative to the use of public money (file No. 112), which was read a first and second time by its title and referred to the committee on revenue, taxation and public debt.

Mr. Creer introduced a proposition relative to sale and rentals of public lands (file No. 113), which was read a first and second time by its title and referred to the committee on public lands.

Mr. Allen introduced a proposition relative to labor (file No. 114), which was read a first and second time by its title and referred to the committee on labor and arbitration.

Mr. Brandley introduced a proposition providing for popular initiative and referendum (file No. 115), which was read by the secretary as follows:

Section 1. The popular initiative may be used when — voters of the State of Utah present a petition for the enactment of the laws, abolition or alteration of certain law passed by the Legislature of the State of Utah.

Section 2. State laws shall be submitted for acceptance or rejection by the people if the demand is made by — voters of the State.

The same was read a second time by its title, and on motion of Mr. Hart, referred to the committee on legislative.

Mr. Thoreson introduced a proposition concerning the removal of county seats, division of counties, county officers and their compensation (file No. 116), which was read by the secretary.

Said proposition was read a second time by its title and referred to the committee on municipal corporations.

Mr. KIESEL. I desire to be excused to-day.

The PRESIDENT. If there is no objection Mr. Kiesel will be excused.

Mr. Page introduced a proposition (by request) relating to the judiciary (file No. 117), which was read a first and second time by its title, and referred to the committee on judiciary.

Mr. THURMAN. Does that say that is presented by request? Does the gentleman endorse the request? Does he take the responsibility to endorse it? I would like the fact to be known, because I think it is out of order if he does not assume it.

The PRESIDENT. Under the rule it should be endorsed.

The SECRETARY. He put his name on it.

The PRESIDENT. That is all right; he put his name on it—he has endorsed it.

Mr. Maloney introduced a proposition relative to compact with the United States (file No. 118), which was read a first and second time by its title and referred to the committee on federal relations and compact.

Special orders.

Mr. SQUIRES. Mr. President, I suppose it is contemplated in our rules, under this order of business, the Convention should resolve itself into committee of the whole. That was my understanding when Mr. Varian presented the rules. I move the Convention now resolve itself into committee of the whole to consider file 83, referred to the committee on Saturday.

The motion was agreed to.

The PRESIDENT. We will go into committee of the whole. I will ask Mr. Kimball, of Ogden, to take the chair if his health will warrant it.

Mr. EVANS (Weber). Mr. President, I would like to move a reconsideration of the action that we have taken. I think we are entirely out of order. I voted for it upon a misapprehension. We were upon the sixth order of business as I understand it, special orders.

The PRESIDENT. Yes.

Mr. SQUIRES. We had not passed unfinished business.

Mr. EVANS (Weber). We cannot go into committee of the whole until we dispose of the business of the Convention, then under the order of motions and resolutions, it might be in order to move that we go into committee of the whole, but we cannot do that at present, without disarranging the order of business. I therefore move a reconsideration of the vote by which we agreed to go into committee of the whole.

Mr. ROBERTS. Second.

Mr. SQUIRES. Mr. President, the gentleman from Weber was a member of the committee on rules and also a member of the sub-committee which drafted the rules, and was present when the rules were adopted and must have heard the explanation made by the chairman, which I noted upon my copy of the rules, that the purpose of this was not only to finish up other unfinished business, but to go into committee of the whole. I noted it upon my copy of the rules at the time. That is the reason the motion was made, Mr. President.

Mr. HART. Mr. President, I am opposed to the reconsideration of the motion or at least to decide not to take up this matter until it comes to the order of motions and resolutions, for the reason that if we do, that will have to pass to the third reading to-day without having anything to read. We go into the committee of the whole, now; reports from the committee of the whole can be considered then on the third reading and in the interests of economy of time to get down to the work we have to do, I would vote in favor of remaining in committee of the whole, or going into committee of the whole now.

The motion to reconsider was lost.

The Convention then resolved itself into committee of the whole, with Mr. Kimball, of Weber, in the chair.

COMMITTEE OF THE WHOLE.

The CHAIRMAN. Gentlemen of the Convention, the matter before the committee of the whole is file No. 83, entitled, "boundaries," reported from the committee on apportionment and boundaries. Under the rules adopted by the Convention, I will read file 83.

Reads file 83. Article one.—Boundary.

Sec. 1. The boundary of the State of Utah shall be as follows, to-wit:

Commencing at a point formed by the intersection of the thirty-second degree

of longitude west from Washington with the thirty-seventh degree of north latitude, thence due west along said thirty-seventh degree of north latitude to the intersection of the same with the thirty-seventh degree of longitude west from Washington; thence due north along said thirty-seventh degree west longitude to the intersection of the same with the forty-second degree of north latitude; thence due east along said forty-second degree of north latitude to the intersection of the same with the thirty-fourth degree of longitude west from Washington; thence due south along said thirty-fourth degree of west longitude to the intersection of the same with the forty-first degree of north latitude; thence due east along said forty-first degree of north latitude to the intersection of the same with the thirty-second degree of longitude west from Washington; thence due south along said thirty-second degree west longitude to the place of beginning.

Mr. WHITNEY. Mr. Chairman, may I ask here why this is article one?

The CHAIRMAN. I am not familiar with the object of the committee in calling it article number one; it is what they reported on Saturday, with a recommendation that it be adopted as a part of the Constitution.

Mr. WHITNEY. I am under the impression that the declaration of rights is article one, I may be mistaken.

Mr. WELLS. Make it article two.

Mr. IVINS. Mr. Chairman, preliminary to a motion that I am about to make I wish to say that at the last session of the Legislature of this Territory a memorial was introduced asking the Congress of the United States to change the southern boundary line of the Territory of Utah, extending it to the Grand Canyon of the Colorado. A bill providing for this change of boundary was introduced by Mr. Rawlins, the delegate from Utah. The legislature of the Territory of Arizona is now in session and a bill is pending before that body providing for this change and asking that the boundary line of the two territories be fixed at the Grand Canyon of the Colorado. The legislature of the Territory of Arizona will adjourn on

the 26th of this month and in order that we may be advised of the action taken by them I wish to move that this file 83 be laid upon the table. It can be taken from it at a subsequent time when we shall have more fully learned what the action of the legislature of Arizona is.

Mr. ROBINSON (Kane). I second the motion.

Mr. CHAIRMAN. I desire to read the first section of the Enabling Act.

(Reads same)

I am inclined to rule that this Convention can take no action contingent upon the action of Arizona or any other territory or state.

Mr. SQUIRES. Mr. Chairman, I just want to ask an explanation from the gentleman from Washington, as to how it happens that the Territory of Arizona is going to be allowed to change this boundary line. Is that the result of a bill passed by Congress putting that power in their hands?

Mr. IVINS. I will answer, Mr. Chairman, for the benefit of the gentleman, that when a memorial was introduced in the Congress of the United States asking for this change, the only objection that was interposed was that the consent of the people of Arizona who were immediately interested in this question must first be obtained. The memorial that is before the legislature of Arizona simply memorializes the Congress of the United States to make this change in conformity with the memorial that we have already presented.

Mr. SQUIRES. Mr. Chairman, I am to understand then, from that that no final action could be taken on this memorial until the next session of Congress, and we would not be authorized to change our boundary line until the bill had passed Congress. For that reason I do not see any use in delaying our proposition until the 26th or any other day.

The CHAIRMAN. I have ruled Mr.

Ivins out of order under the Enabling Act.

Mr. JAMES. Mr. Chairman, may I say a word? A similar case to this came up in Congress—

The CHAIRMAN. There is nothing pending before the house.

Mr. JAMES—Relative to the State of Nevada and the first boundaries of the State of Nevada—

The CHAIRMAN. There is nothing pending.

Mr. JAMES. I ask if I might make a statement, merely for the benefit of the house.

The CHAIRMAN. With the consent of the house, yes.

Mr. JAMES. The Convention fixed the boundary at 38 north latitude, or where Congress might thereafter fix it, and Congress did thereafter fix it at 37, and I think Mr. Ivins' proposition should be made in that way, that it could be left open so that Congress could hereafter fix the boundary in accordance with what change they might make.

Mr. IVINS. The chair having ruled my motion out of order, I shall be under the necessity of appealing from that ruling, not on the ground that we have any authority to change the boundary lines of the Territory of Utah, but upon the ground that a motion to lay this file 83 on the table is in order at this time. That was my motion—that it may be called up at any future time. It is not to finally dispose of it. I think that a motion to lay on the table is in order in regard to this or any other file that may be presented.

The CHAIRMAN. The question is on the appeal from the chair. Shall the decision of the chair stand as the decision of the committee on Mr. Ivins' motion.

Mr. EVANS (Weber). Mr. Chairman, this is debatable and I desire to be heard for a moment upon it. With all due respect to the chair, I think Mr. Ivins is entirely right. If this Convention wants it can lay the Constitution

of the United States on the table. It can lay the Enabling Act on the table. It can cease work. It is a sovereign body in itself, and for the chair to say that a motion to lay on the table is out of order, is something that is departing from every parliamentary rule ever written yet. I am entirely of the opinion that this Convention has no business to change the boundaries as fixed by the Enabling Act, and I should vote against laying this on the table. We are to be confined to the boundaries at present established. No act of Congress has been passed changing these boundaries of Utah and we are confined to that. To say that a motion to lay an estimate upon the table is out of order, I think is violating every principle of parliamentary law, and therefore, I shall vote not to sustain the decision of the chair, but when the matter comes up I shall vote against laying it on the table.

Mr. HART. Mr. Chairman, I am in favor of supporting the chair on this proposition, for the reason that the committee have no power to lay a proposition on the table: they might make a recommendation back to the Convention and have them lay it on the table, but we have no authority, as I understand it, to lay a proposition upon the table. On that ground I will vote to sustain the chair.

Mr. SQUIRES. Mr. Chairman, the only motions that are in order, are a motion to amend or to adopt before this committee of the whole, and therefore, I shall have to vote with the chair on this proposition.

Mr. RICHARDS. Mr. Chairman, I believe the decision of the chair is right, and I think the proper motion to accomplish the purpose desired by the delegate from Washington was to postpone further consideration of this matter in the committee. That I think is legitimate and proper, but I don't understand that as a committee we have the right to lay a matter upon the table. We

have a right to consider, or we have a right to postpone the consideration. That, I think, should be the proper motion. I shall vote for sustaining the decision of the chair, and I desire while on my feet to read one or two lines from the Enabling Act. The first section after the enacting clause is, "the inhabitants of all that part of the area of the United States now constituting the Territory of Utah as at present described may become the State of Utah, as hereinafter provided." And I submit if we become a State under this act, we become a State with the boundaries of the Territory as they are now described.

Mr. IVINS. Mr. Chairman, I just wish to state that I am in perfect accord with the gentleman from Salt Lake, that we have in a committee of the whole the right to postpone the consideration of this question, and I also maintain that a motion to lay on the table means simply to postpone it; we can take it up at any time. It is simply to defer its consideration temporarily. It may be taken up from the table at any time, and therefore the motion is entirely in order in the committee of the whole, just as it is in the Convention.

Mr. CANNON. Mr. Chairman, I think Mr. Squires, from Salt Lake, is right when he says we cannot move anything except two motions. By turning to Roberts' rules of order on page 77 we find that in a committee of the whole, the only motions in order are to amend and adopt, that the committee rise and report; it cannot adjourn, nor can it order the ayes and the noes. I shall therefore vote to sustain the chair.

The ruling of the chair was sustained.

The CHAIRMAN. File No 83 is here still before the committee for action.

Mr. SQUIRES. Mr. Chairman, I am not sure that the gentleman who presented this article for insertion in the Constitution has properly described the boundaries of the State. I am not sufficiently up in geography to know

whether that is true or not, but I believe Mr. Crane, of Millard, has done it. I therefore move that we adopt this article as printed.

Mr. WELLS. Mr. Chairman, I have an amendment I desire to suggest; I simply want to offer an amendment that the number of the article be changed to "article number two," for the reason that I think that the declaration of rights ought to be article number one. With that amendment I have no objection to the motion. But if the motion is now pending, I assume that an amendment is out of order.

Mr. THURMAN. Mr. Chairman, I don't think we ought to adopt any number at all. Leave that to the committee on compilation and arrangement; we cannot tell where it will fall.

The CHAIRMAN. The question now is on the motion of Mr. Squires, of Salt Lake County.

Mr. VAN HORNE. Mr. Chairman, I would like to ask the chairman of the committee if that is the boundaries of the Territory of Utah as it is described in the Organic Act.

The CHAIRMAN. I so understand it, but the chairman of the committee that reported it can better state that.

Mr. ELDREDGE. No, sir; it is not, because the Organic Act provides a great deal more territory than what we find is now in the Territory. A portion of Idaho has been taken off, and a portion of Wyoming and a portion of Nevada. When Utah was formed by the Organic Act it covered a great deal larger area of country than what it does at present. For instance, all of Nevada was in Utah at one time, and a portion of Idaho.

Mr. VAN HORNE. Then I will ask the further question of the chairman of that committee, whether the description is the description that is now given in any act of Congress of this Territory of Utah.

Mr. Chairman, it is not exactly in

order, but my reason in asking this is, I understand the government's survey commences from the southeast corner and runs northerly, thence west and thence south, and thence east to the point of beginning; if that is the general rule, as I understand it to be, our description not being in conformity with that, might make some trouble.

Mr. CRANE. Mr. Chairman, I will say in explanation of that, I was appointed one of the committee of three to secure the boundaries of the Territory of Utah as it is at present on the map. I secured a very good map, the best they had in the land office, and we bounded it as best we could. I afterwards went to Surveyor General Snow, of the Territory, and compared our boundaries with his; we found them exactly right. I also secured a copy of the Constitution of 1882 of the Territory of Utah, and of 1887, and I find that they correspond exactly as the boundaries are printed in the journal before us to-day. The surveyor general visited me and I visited him twice to compare the exact latitude and longitude and get the exact figures, and I find they correspond exactly.

Mr. THORESON. Mr. Chairman, I move to amend the amendment by striking out the number entirely, leaving it blank.

Seconded.

Mr. SQUIRES. As the mover of the the original motion, I will accept that amendment. I apprehend that that duty would devolve upon the committee on compilation and arrangement anyhow, and I did not consider it was important in this connection.

The CHAIRMAN. The question now recurs on the original motion as amended.

Mr. CANNON. Mr. Chairman, I do not know as it makes any difference, but personally I would have preferred seeing the preamble and declaration of rights considered first. I think it would have been a little nicer. I would have

preferred considering it that way myself, and for that reason I believe personally, it would be better to postpone action upon this. For that reason I move that we rise and report progress.

The motion of Mr. Cannon was lost.

Mr. ELDREDGE. Mr. Chairman, I thought if it were necessary to make any change in the Constitution respecting the article that that report would be within the lines of the committee on compilation and arrangement, because the fact that states generally start out with a bill of rights in the first article, does not make it necessary for Utah to do so, and if a man was inquiring where Utah was, and what our boundaries were, we thought perhaps it would be well enough to commence the first article by giving the boundaries of the State of Utah. I see, however, that modernly the bill of rights comes further along in the Constitution in some of the states, so I should favor it as it now stands.

Mr. RICHARDS. I understand that we have already stricken out that number.

The CHAIRMAN. It is a part of the original motion now.

Mr. RICHARDS. It now stands without a number—am I correct?

The CHAIRMAN. The motion is to adopt it without a number.

Mr. RICHARDS. Mr. Chairman, I am decidedly in favor of that motion, because, as I understand it, it is the peculiar prerogative of the committee on compilation to make this arrangement under our rule, and any change from that would be a suspension or change of the rule, and I think that all these articles should be adopted without a number and referred to the committee.

The CHAIRMAN. The question is now on the motion to adopt file 83, section 1, the article number being stricken out.

The motion was agreed to.

Mr. SQUIRES. I now move that we rise and report to the Convention.

The motion was agreed to.

The committee accordingly rose and the president having resumed the chair Mr. Kimball reported that the committee of the whole having had under consideration file No. 83, had adopted the same, striking out the words, "article one," and recommend that it go on file for a third reading.

The report was adopted.

Mr. ELDREDGE. Mr. President, I move that file No. 83 now go to its third reading.

The PRESIDENT. It goes without a motion under the rule here.

Mr. RICHARDS. Mr. President, I move the article be read a third time by its title.

Mr. EVANS (Utah). When we went into committee of the whole we were on unfinished business. The order of business now is special orders.

The PRESIDENT. We were on special orders in connection with this. This came up under special orders when we went into committee of the whole.

Mr. HART. Mr. President, I think there are no special orders and I think the third reading of bills is now in order.

Mr. WELLS. Mr. President, are we on special orders now?

The PRESIDENT. We are on the third reading of ordinance as I understand it.

Mr. VAN HORNE. Mr. President, I understood when we went into committee of the whole, we went there under the head of unfinished business.

Mr. RICHARDS. Mr. President, I submit that this is immaterial, because the records show there is no special order and if there is no special order, there is no use arguing it.

Mr. WELLS. Mr. Richards made a motion and I seconded it a while ago that this article be read by its title a third time.

Mr. EVANS (Weber). Mr. President, may I state a point of order?

The PRESIDENT. Yes, sir.

Mr. EVANS (Weber). This is the first time we have gone into committee of the whole and I think we are going along a little too fast. This matter is one about which we will agree so far as the boundaries of the Territory are concerned, but we ought to get it right, because if we don't in this instance, we will probably get other propositions in the same way. I want to call the Convention's attention to rule 21. The first part of the rule provides for a special calendar, for a committee of the whole, upon which all propositions to be considered by the committee shall be placed. That is something that was not done, I think so far as this proposition is concerned. But the latter part of the rule reads as follows: "After the committee of the whole has been in session, every proposition or other matter reported from the committee of the whole for a third reading by the Convention, shall be placed upon the Convention calendar and be considered and acted upon under that order of business." I also call attention to rule 33, in connection with that. Speaking of the sergeant-at-arms, he says, "he shall procure a bulletin board of suitable dimensions to be placed by him, under the direction of the president, in some convenient place in the chamber." Now, that is for the purpose of putting on this order of business. If we take up this order of business and pass this proposition respecting the boundaries of the Territory, we make a final vote upon it. Some members who are not present may desire to record their votes. In this instance I think it will make little difference, but if we are proceeding with the bill of rights in this summary matter or some other proposition to be inserted in the Constitution, it would be somewhat irregular—I think very irregular. I therefore rise to a point of order in this respect—that

this proposition now having been reported from the committee of the whole should go upon the Convention calendar to be called up for its third reading at our next session.

The PRESIDENT. I think the point of order is well taken.

Mr. RICHARDS. Mr. President, I desire to appeal from the decision of the chair on this point, for this reason: if it does not say that it shall be considered at a subsequent session of the Convention.

Mr. EVANS (Weber). I think Mr. Richards—

Mr. RICHARDS. Now, the report has been made. The report was made before the chair announced the third reading of these articles. It then immediately went on the calendar of the Convention and it was instantly in order for consideration. The motion to consider was in order. The delegate from Weber has discussed the proposition as though this rule read (and I understand the decision of the chair to be based on that idea) that it go upon the calendar and be considered at some subsequent session. Now, I should have no objection to a rule of that kind. I think such a rule would be very proper, but that is not the rule. The rule is that the proposition or other matter reported from the committee of the whole for a third reading by the Convention shall be placed upon the Convention calendar and be considered and acted upon under that order of business. Now, when we went into committee of the whole we had not reached the seventh order of business, to-wit, the third reading of ordinances and propositions to be inserted in the Constitution. Consequently when it arose and reported this proposition it went on the calendar and as soon as the chair announced the third reading of ordinances and propositions to be inserted in the Constitution it was in order for consideration. And therefore, I think my motion is in order.

Mr. EVANS (Weber). In support of the chair, I desire to call attention to another rule, in rule 30, speaking of the duties of the secretary, it says, "he shall prepare and post on the bulletin board in the hall of the Convention in the morning of each day a calendar of the orders and business of the day for the Convention, and a like calendar for the committee of the whole."

Mr. RICHARDS. What relation has that to this question?

Mr. EVANS (Weber). It has this relation; here is a piece of important business. The idea is to give notice to the members of this Convention when we are about to pass a proposition to be inserted in the Constitution, that they may have notice of it. 'I am under the impression that this business could not be transacted on the same day. I may be in error on that, but certainly it was the intention of the committee not to take up an important piece of legislation one day and railroad it right through, but that rather all business ought to be upon the bulletin board; we have provided that the secretary shall place it there so that the members may know what is coming up the next day on all these important matters. That is what these rules have reference to, is the proposition to be inserted in the Constitution. It is not supposed that the secretary can place upon the bulletin board matters which would come up promiscuously in the Convention, but those matters of importance which we are to pass upon, which are to be a part of the Constitution, are supposed to be posted by giving the time when they will be taken up, either in the committee of the whole or in the Convention. It is simply to prevent hurried legislation. It is a parliamentary rule that a thing cannot be read a first, second and third times on the same day and passed in a legislative body, and this of course partakes of the same character as a legislature.

Mr. EICHNOR. Mr. President, I de-

sire to ask the gentleman from Weber County a question. Do you hold that we could not pass a file or a bill, or a proposition under a suspension of the rules, if we suspended the rules?

Mr. EVANS (Weber.) Certainly not. The rules can be suspended, but as long as they are in force they should be obeyed.

Mr. EICHNOR. You hold that unless we suspend the rules we cannot pass this proposition?

Mr. EVANS (Weber.) That is the idea I had, yes, sir.

Mr. WELLS. Mr. President, I submit that this consideration of the third reading of this matter is entirely in order to-day for the reasons already stated by Mr. Richards, that we have reached the third reading of bills on the calendar and that this is the third reading of the bill, and so far as the gentleman's remarks in regard to the fact that the matter has not been placed upon the calendar, I call his attention to the fact that the bulletin board shows that file number 83, boundaries, will be considered in the committee of the whole, and I submit that that is notice enough to the members.

Mr. EVANS (Weber.) We have done, Mr. Wells. I am objecting now to considering its third reading in the Convention.

Mr. WELLS. I submit that this is the rule of the Convention at present, and if the gentleman wants it changed, he ought to move to amend the rules.

Mr. HART. Mr. President, I think under our rules, without any suspension of them, the proposition would be considered in a committee of the whole a day before being considered by the Convention, for the reason that unless resolving ourselves into committee of the whole was made a special order to come up under the sixth order of business, we will resolve ourselves into committee of the whole regularly under this eighth subdivision, which would be motions and resolutions, which occurs after the

third reading of propositions and therefore the third reading would be passed and the work of the committee would come up the next day, so I think the rules are all right; and as to the question as to whether the decision of the chair should be sustained in this case or not, I call the gentleman's attention who objected to this matter, and who I think is responsible for the ruling of the chair in this direction, that Mr. Richards' motion was that the rules be suspended. We can move to suspend our rules even if they are as he states—even if we can regularly consider these propositions on the same day, it is in order to move a suspension of the rules, and that is Mr. Richards' motion as I understand it—that we suspend the rules.

Mr. EVANS (Weber.) I did not so understand it.

The PRESIDENT. No; the chair did not so understand it.

Mr. HART. If there is any question about that I would ask the gentleman to withdraw his appeal from the decision of the chair.

The PRESIDENT. His motion did not embrace the suspension of the rules. Was the intention of the gentleman to do it?

Mr. RICHARDS. It was my intention to do it, and my recollection is that I did do it for this reason: the rule provides for third reading of ordinances and propositions to be inserted in the Constitution. That implies as I understand it a reading in full, and my motion was to obviate the necessity of a full reading and substitute a reading by title. So I think I said I moved a suspension of the rules and that it be read by its title.

The PRESIDENT. Gentlemen, the question before the house is the suspension of the rules by Mr. Richards and that we proceed to the third reading of this proposition file No. 83 by title.

The motion was agreed to.

File No. 83 was then read by its title.

Mr. RICHARDS. Mr. President, I move this article pass its third reading and be referred under the rules to the committee on compilation and arrangement.

Mr. WELLS. I second the motion.

The roll was then called, showing the following result:

AYES—96.

Allen	Larsen, L.
Adams	Larsen, C. P.
Anderson	Lemmon
Barnes	Low, William
Bowdle	Low, Peter
Boyer	Low, Cache
Brandley	Lund
Button	Maeser
Buys	Maloney
Call	Maughan
Cannon	McFarland
Chidester	Miller
Christianson	Morris
Clark	Moritz
Coray	Murdock, Beaver
Corfman	Murdock, Wasatch
Crane	Murdock, Summit
Creer	Nebeker
Cunningham	Page
Cushing	Partridge
Driver	Pierce
Eichnor	Peters
Eldredge	Peterson, Grand
Emery	Peterson, Sanpete
Engberg	Preston
Francis	Raleigh
Gibbs	Richards
Goodwin	Roberts
Green	Robertson
Hammond	Robinson, Kane
Hart	Robison, Wayne
Haynes	Ryan
Halliday	Sharp
Heybourne	Shurtliff
Hill	Snow
Howard	Spencer
Hughes	Squires
Hyde	Stover
Ivins	Strevell
James	Symons
Johnson	Thompson

Jolley	Thurman
Keith	Van Horne
Kearns	Warrum
Kerr	Wells
Kimball, Salt Lake	Whitney
Kimball, Weber	Williams
Lambert	Mr. President.

Absent or excused—9.

Mr. IVINS. Mr. President, I desire to be excused from voting, because I have not examined this description and I have not had time to do it.

Mr. Ivins was excused from voting.

Mr. EVANS (Utah). Having just come in, I don't know anything at all about it. I desire to be excused.

Mr. Evans (Utah) was excused from voting.

Mr. FARR. I will have to be excused from voting; I have not had time to examine the article.

Mr. Farr was excused from voting.

Mr. WHITNEY. Mr. President, before I vote I would like to ask if this motion, if it is carried, will preclude any further amendment, if such should be found to be necessary. The proof reader may have made a mistake. This description ought to be verified very carefully before it is finally passed upon. May the committee on compilation and arrangement verify this and change the phraseology to make it correct if need be?

Mr. ELDREDGE. I will say, Mr. President—

The PRESIDENT. The committee shall have full power to revise the language used in various propositions and arrange the same so as to be clearly expressive of the sense of the Convention, and to make the instrument complete and consistent within itself.

Mr. WHITNEY. Expressive of the sense of the Convention?

The PRESIDENT. Yes, sir.

Mr. WHITNEY. Of course the sense of the Convention is to have it correct?

Mr. EVANS (Weber). No, the sense of the Convention is just as we have it now.

Mr. THURMAN. Mr. President, I don't think that can be the rule—the sense of the Convention, just as it may be printed. Else, why have a committee on revision at all? If the instrument as printed expresses the sense of the Convention, we do not need any committee.

Mr. WHITNEY. I will vote yes, with that understanding.

Mr. Spencer was by request excused from further attendance upon the day's session.

The PRESIDENT. The article has passed and will go to the committee on compilation and arrangement.

Motions and resolutions.

Mr. SQUIRES. Mr. President, I desire to offer the following resolution to meet the contingency which my friend from Weber County has raised on the question of rule 21.

Reads:

Resolved, that rule 21 be amended by adding the words, "at the next session of the Convention," at the end of the rule.

I move that this resolution be referred to the committee on rules.

The motion was agreed to.

Mr. Evans (Weber) offered the following resolution:

Resolved, that it be the sense of this Convention that in providing for the number of public offices and the salaries to be paid therefor, the same to be as few in number and as low in amount as is consistent with the times, and the efficiency of the services to be performed.

The resolution was adopted.

Mr. Thurman offered the following resolution:

Resolved, as the sense of this Convention, that the Constitution shall contain only the general plan and fundamental principles of the State government, together with such limitations of the powers thereof as may be deemed wise and expedient for the preservation of civil, political and religious liberty.

Resolved further, that matters purely of a legislative character not intended as necessary limitations of power,

should not be inserted in the Constitution, but left to the Legislature, acting within its constitutional powers.

The resolution was adopted.

Mr. WELLS. Mr. President, I move that the draft of the preamble and bill of rights submitted to the committee to-day be made the special order for consideration by the committee of the whole for Wednesday at three p. m.

Seconded.

Mr. WELLS. The reason I make it for Wednesday is that some of the committee will not be able to attend to-morrow and they want to be here when it comes up.

Mr. ROBERTS. I would like to ask the members if printed copies of this report can be placed in the hands of the members by to-morrow.

Mr. WELLS. Yes; I will say that the matter has already been set up and the copies may be stricken off at any time, within half an hour if so ordered.

The motion was agreed to.

Mr. ELDREDGE. Mr. President, I want to move an amendment to be referred to the committee on rules—in rule 21 considered in connection with the one presented by the gentleman from Salt Lake, that in the last line after the word "upon" that he insert "at a subsequent day" and that will leave it so that we would not have to consider it on the day following.

The PRESIDENT. Will the gentleman please write it?

Mr. GOODWIN. May I be excused.

The PRESIDENT. The gentleman can be excused.

Mr. RICHARDS. I move that the committee on rules report an amendment to the rules, providing that no ordinance or proposition reported by any committee shall be considered either in Convention or committee of the whole, at the same session at which the same are reported nor until the same have been printed and at least one day has elapsed after the distribu-

tion in printed form to the members of the Convention.

The PRESIDENT. The matter will go to the committee on rules if there is no objection.

Mr. SQUIRES. Mr. President, the only objection to that that I see would be that if something would come up here on Saturday we could not consider it within twenty-four hours, unless we held a Sunday session.

Mr. RICHARDS. My motion is that it shall not be considered within twenty-four hours.

Mr. SQUIRES. Oh, I beg pardon, I didn't understand it.

Mr. RICHARDS. That is to say, the consideration shall not come up within twenty-four hours after the printing.

The PRESIDENT. I desire, gentlemen, to have read, with your consent, a letter from the Honorable Moses Thatcher, who is very sick and has sent a communication here and asked that it be read in the Convention. If there is no objection the same will be now read.

The secretary then read the following:

LOGAN, UTAH, March 18th, 1895.

Hon. John Henry Smith, President,
Constitutional Convention, Salt
Lake City, Utah:

DEAR SIR: Having recently undergone a somewhat painful surgical operation, I find that improper haste in resuming work has produced unfavorable results, compelling me now to keep quiet, absolute rest, and treatment for a few days, and possibly a longer period.

Will you therefore, in my behalf kindly make to the honorable members of this Convention the necessary explanation required by the rules governing such matters. I shall expect no compensation for the period covering my absence; and under no circumstances will demand remuneration, to be paid from any deficiency which the people of Utah may be required to raise through taxation on their property, should the generous appropriation of Congress prove inadequate to the expenses of the Constitutional Convention.

In the interest of committees with which you did me the honor of associating my name, I respectfully suggest the appointment of others able and qualified to do their full share of the work—

a duty under other circumstances I should feel it a pleasure to perform. Trusting that the utmost harmony and fraternal feeling may attend all deliberations of the Convention over which you have the honor of presiding, and that partisanship, local demands, and individual interests may be subordinated to the general welfare, so that a Constitution may be drafted and approved, no provision of which shall ever bring a blush of shame or feeling of regret to us or our children, and one which as a whole the voters of Utah may adopt by an overwhelming majority.

If true patriotism, a high regard for the right of the governed, sympathy for the laboring masses and producing classes, united with equity, justice, and economy in all public expenditures, shall be made basic principles upon which the fundamental law of the new State shall forever rest, that a happy result must surely follow, and the people who sent, with the fullest confidence, the honorable members of the Utah Constitutional Convention, will not be disappointed, nor have cause to regret the choice made in selecting the men best qualified to write the State charter—a law of human justice and liberty, before which all may feel equally protected, while learning that untarnished American citizenship is the highest distinction to which we or our children can aspire.

Very respectfully yours,
MOSES THATCHER.

The PRESIDENT. What will you do with the communication, gentlemen?

Mr. SQUIRES. I move that it be received and placed on file.

Mr. HART. Mr. President, if Mr. Thatcher is sick, as he states, and unable to attend and desires to be excused I think in justice to himself a record should be made of why this is done and that it should be incorporated in the minutes.

Mr. SQUIRES. I will modify my motion to make it read that way.

The motion was agreed to.

Mr. IVINS. Mr. President, I arise to a question of personal privilege, and to ask the chair for a ruling upon rule 20. To-day is the first time that we have gone into committee of the whole and I do this simply in the hope that a rule may be established, and that there will be no future confusion or question, be-

ing willing myself to conform to the ruling of the chair.

Rule 20 provides, "The same rules shall be observed in committee of the whole as in the Convention, as far as the same are applicable, except that the previous question shall not apply, nor the ayes or noes be taken, nor a limit be made as to the number of times speaking." Now, Mr. President, it was with the understanding that under this rule it would be proper to temporarily defer the consideration of any question that properly came before the committee of the whole, that I moved to lay this file eighty-three upon the table, with a view that at a later date should we learn that favorable action would be taken by the Territory of Arizona, I might have inserted an amendment that "the boundaries of the State of Utah, should be as follows, unless extended by act of Congress of the United States." Under the ruling of the chair, a motion was not in order to lay any question on the table or to temporarily suspend its consideration. I understand from this rule that the same rules that govern the Convention were to apply, except as to the previous question, the ayes and noes, or a limit to the times of speaking. Conditions may arise when more than one file will be before the committee of the whole. Now, what I want to get at is whether a measure that is brought up may be deferred temporarily, without the necessity of rising and reporting, or whether that matter may be temporarily deferred and its consideration taken up at a subsequent meeting of the committee of the whole. I know of no rule by which this can be established, and therefore ask the chair to rule, as to how far this rule 20 is to apply, to the rules that govern the Convention, and whether it will embrace with propriety a motion to temporarily defer consideration or to lie on the table.

Mr. RICHARDS. Mr. President, I arise for information, is there anything before the house?

The PRESIDENT. There is nothing before the house.

Mr. RICHARDS. Then I move to adjourn.

Mr. IVINS. Mr. President, there is something before the house. I ask for a ruling on this question.

Mr. RICHARDS. I suggest that that ruling from the chair cannot be obtained by this method. I submit that ruling can only be obtained upon motions.

Mr. IVINS. I submit that any member who is in doubt and asks the opinion of the chair upon a question has the right to receive it.

Mr. EICHNOR. Mr. President, I think that is a matter that is settled in committee of the whole, and not by the president of the Constitutional Convention. The president can call any one to the chair whom he pleases or the committee can.

Mr. CANNON. I second Mr. Richards' motion.

The motion was agreed to.

The Convention then, at 4:30 o'clock p. m., adjourned.

SIXTEENTH DAY.

TUESDAY, March 19, 1895.

The Convention was called to order by President Smith.

The roll was called and the following members found in attendance:

Adams	Lewis
Anderson	Lowe, Wm.
Bowdle	Lowe, Peter
Boyer	Low, Cache
Brandley	Maeser
Button	Maloney
Buys	Maughan
Call	McFarland
Christianson	Miller
Coray	Moritz
Corfman	Murdock, Beaver
Crane	Murdock, Wasatch
Creer	Murdock, Summit

Cunningham

Cushing

Driver

Eichnor

Eldredge

Engberg

Evans, Weber

Evans, Utah

Francis

Goodwin

Green

Hammond

Hart

Haynes

Halliday

Hill

Howard

Hughes

Hyde

Ivins

Jolley

Keith

Kearns

Kerr

Kimball, Salt Lake

Kimball, Weber

Lambert

Larson, L.

Larson, C. P.

Lemmon

Page

Partridge

Peters

Peterson, Grand

Peterson, Sanpete

Pierce

Preston

Raleigh

Ricks

Roberts

Robertson

Robinson, Kane

Robison, Wayne

Ryan

Sharp

Shurtliff

Squires

Stover

Strevell

Symons

Thompson

Thoreson

Thorne

Thurman

Van Horne

Warrum

Wells

Whitney

Williams

Mr. President.

Prayer was offered by Rev. J. D. Gililan, of the Methodist Episcopal Church.

The journal of the fifteenth day's session was read and approved.

Mr. CORAY. Mr. President, I would suggest that all the matter on page 66 (of the journal) be stricken out, except the last which constitutes the signature and the motion to adjourn. It is entirely superfluous, and I think there is no sense in political buncombe being inserted in the minutes of this Convention.

The PRESIDENT. The gentleman's motion is out of order. It will take a motion to consider this, inasmuch as it was passed upon, as I understand it, by the Convention previous to being entered upon the record.

Mr. EVANS (Weber). Mr. President, I think an explanation is due from the

gentleman from Juab for the disrespectful language he has used toward one of our sick delegates. I do not know what he means when he says it is political buncombe. There is nothing in it of a political nature that I can conceive. Moses Thatcher is suffering with severe physical infirmities. He wrote a respectful letter to the president of the Convention, in respectable language. It in a spirit of justice was printed, and why one member should stand upon this floor under these circumstances and brand it as political buncombe, is something I am unable to understand. I think the gentleman ought to explain. If he can point out the politics in it, I would like to hear it.

Mr. SQUIRES. Regular order.

Presentation of petitions and memorials.

Mr. Call presented a memorial from the women of Davis County, praying for equal suffrage.

The same was read and referred to the committee on elections and rights of suffrage.

Mr. HYDE. Mr. President, I have a petition from the women of Juab County which I desire to have read and referred to the committee on elections and rights of suffrage.

The same was read by the secretary as follows:

GENTLEMEN: We, your petitioners, women residents of Juab County, Utah Territory, being over the age of eighteen years, respectfully ask your honorable body to insert into the Constitution to be by you framed for the new State of Utah, such provisions as will give to the women the same rights of suffrage as now possessed by the men of the Territory, and your petitioners will ever pray.

The PRESIDENT. It will go to the committee on elections and rights of suffrage.

Reports of standing committees.

Mr. PIERCE. Mr. President, I have the report of the committee on education and school lands which I desire to present.

Convention Hall, March 19, 1895.

MR. PRESIDENT:

Your committee on education and school lands report that they have had under consideration the various petitions and propositions referred to them, and herewith submit to you a substitute proposition, and they recommend that the substitute be put upon its passage and become a part of the Constitution.

PIERCE,
Chairman.

The PRESIDENT. Under the rules this will go to the committee of the whole.

Mr. THORESON. I would like to ask the chairman of this committee if it is reported unanimously.

Mr. PIERCE. Yes, sir; there were no objections to it.

The PRESIDENT. It will go upon the calendar.

Mr. WELLS. Mr. President, under the rule, as I understand it, this matter is referred to the printing committee and then goes to the committee of the whole; when it comes from the committee of the whole it goes on the calendar for third reading. Now, I want to know when it receives its second reading.

Mr. PIERCE. Mr. President, in order to relieve the difficulty that Mr. Wells suggests, I now move you that it be read the first and second time by its title, and then referred to the committee of the whole.

Mr. SQUIRES. Mr. President, if that is in accordance with the rule under which we are working, I do not see the necessity of any motion. It should be read the first and second times now.

Mr. HART. Mr. President, it will already be considered as having been read the first and second times for the reason that it is a substitute for bills that have been read a first and second time; otherwise, any amendment made to a bill upon the third reading or a substitute offered upon this floor of the house, presented upon the third reading, would have to be read a first and second time.

Mr. PIERCE. Mr. President, I do not see the necessity of this motion, but inasmuch as the gentleman from the fourth precinct of this city suggested it, I thought perhaps that I would relieve the difficulty, and it strikes me that the remarks made by the gentleman from Cache are pertinent to the question, and that it would now simply go to the committee of the whole under the rules.

Mr. THURMAN. Mr. President, it depends altogether upon how this measure is reported by the committee. Has the committee reported it as a substitute?

The PRESIDENT. That was the statement.

Mr. THURMAN. Then it has passed its first and second reading?

The PRESIDENT. It will go to the committee on printing and be printed, and under the rule, go to the committee of the whole as I understand it.

Mr. THURMAN. Let me ask one question, Mr. President. This matter that has just been referred to the committee of the whole—does it state what it is a substitute for?

The PRESIDENT. It says under the proposition presented to the committee for consideration.

Mr. THURMAN. It ought to state what it is a substitute for, it seems to me, and mention that. Men here have a right to know what has become of their propositions. The house has a right to know whether they have been considered or not. If it states that it is a substitute for propositions, naming them, it shows that the committee has considered the proposition.

The PRESIDENT. Did you call for the reading of the committee report?

Mr. THURMAN. I would like to hear the report read.

Mr. SQUIRES. Mr. President, before this reading, I would like to ask consent of this Convention to allow Mr. Westerfield and Mr. Wenger, of Salt Lake, seats on the floor of this Convention.

The PRESIDENT. If there is no objection the gentlemen will be permitted to occupy seats upon this floor.

Mr. LUND. Mr. President, I would like to ask the privilege for the superintendent of schools from Sanpete, Mr. Green.

The PRESIDENT. The privilege will be granted if there is no objection.

Mr. HILL. Mr. President, I would like to have the privilege extended to Col. Sells to occupy a seat on the floor of this Convention.

The PRESIDENT. Permission will be granted without there is objection.

The secretary will read this report.

The PRESIDENT. It has gone to the proper committee.

Introduction of ordinances and propositions for insertion in the Constitution.

Mr. Green introduced a proposition on irrigation.

Mr. CANNON. Mr. President, I move that the rules be suspended on all propositions introduced to-day, and that unless the reading be called for, they be read twice by their titles and referred to the appropriate committees.

The motion was carried.

The proposition of Mr. Green, above referred to, was read by the secretary as follows:

IRRIGATION.

Section 5. The water of every natural stream, not heretofore appropriated, within the State of Utah, is hereby declared to be the property of the public, and the same is dedicated to the use of the people of the State, subject to appropriation as hereinafter provided.

Section 6. The right to divert the unappropriated waters of any natural stream to beneficial uses shall never be denied. Priority of appropriation shall give the better right as between those using the water for the same purpose; but when the waters of any natural stream are not sufficient for the service of all those desiring the use of the same, those using the water for domestic purposes shall have the preference over those claiming for any other purpose; and those using the waters for agricultural purposes shall have preference over

those using the same for manufacturing purposes.

Section 7. All persons and corporations shall have the right of way across public, private, and corporate lands for the construction of ditches, canals, and flumes, for the purpose of conveying water for domestic purposes, for the irrigation of agricultural lands, and for mining and manufacturing purposes, and for drainage, upon payment of just compensation.

Section 8. The general assembly shall provide by law that the board of county commissioners, in their respective counties, shall have power, when application is made to them by either party interested, to establish reasonable maximum rates to be charged for the use of water, whether furnished by individuals or corporations.

The above proposition was read a first and second time by its title and referred to the committee on water rights, irrigation and agriculture.

Mr. Francis introduced a proposition on bills and amendments of law, which was read a first and second time by its title and referred to the committee on legislative.

Mr. Robison, of Wayne, introduced a proposition on public indebtedness, which was read a first and second time by its title and referred to the committee on revenue, taxation and public debt.

Mr. Johnson introduced a proposition on water and water rights, which was read.

The proposition of Mr. Johnson was read a second time by its title and referred to the committee on water rights, irrigation and agriculture.

Mr. Hammond introduced a proposition, which was read by the secretary as follows:

No appropriation shall be made for charitable, industrial, educational, or benevolent purposes, to any person, corporation, or company in or under the absolute control of the State, nor to any denominational or sectarian institution or association.

Said proposition was read a second time by its title and referred to the committee on revenue, taxation and public debt.

Motions and resolutions.

Mr. PAGE. Mr. President, as chairman of the committee on federal relations, I wish to state that the committee on federal relations find that their duties conflict somewhat with those of the committee on ordinances, and in the interest of the saving of time, especially on the floor of the committee, they have concluded that it would be best to act together with reference to any such matter that may be brought before them, and ask that the consent of this Convention be given that they may so consider such matters and report jointly thereon.

Mr. HEYBOURNE. Mr. President, in relation to the matter that the gentleman has just spoken on, I would say that the committee on ordinances have had this matter under advisement and are very near ready to report upon the subject matter that was entrusted into their charge, but have learned that there was likely to be a little conflict between them and the committee on federal relations, and as the gentleman has stated I believe I voice the sentiment of the committee in this regard, that it would be a matter of economy as well as the saving of time to allow these two committees to report together upon the subject matters that have been entrusted into their hands. Therefore, if the gentleman has made the motion, I wish to second it.

The PRESIDENT. If there is no objection, these committees will be permitted to act in harmony with each other.

Mr. Squires offered the following:

Resolved, that after the 25th day of the session no proposition for insertion in the Constitution shall be received.

Mr. SQUIRES. I think it is time to limit this flood-tide of propositions that seems to be surging into the Convention. So far as the committee that I am on is concerned, propositions are coming in daily upon matters that we

have discussed and passed upon and I think if we extend the limit ten days longer, that ought to be sufficient time for everybody to get their matters before the Convention. I move the adoption of the resolution.

Mr. RICKS. Mr. President, as I understand it, the majority of the committees have advanced their work very materially, in fact, many of them are just about ready to report, and believe it would be proper to limit to a less time than the gentleman has mentioned, and I will move to amend the proposition by naming the 20th day instead of the 25th.

Mr. SQUIRES. Mr. President, in preparing that resolution I had written the 20th day, but on consultation with some of the gentlemen around here, they thought that was cutting off some of the statesmen a little too early and so the resolution extended the time five days for the benefit of those who have not had time to examine all the constitutions of the forty-four states.

Mr. EVANS (Weber). Mr. President, I would like to support the motion, but I would like to have a little amendment to it: "Unless by the consent of the Convention;" I do not think the rule ought to be made iron-clad, so that it would absolutely preclude the introduction of any matter. That would practically cut everything off, unless the Convention consented that something else might be included. I therefore move to amend with the words, "without the consent of the Convention," be added to it.

Mr. SQUIRES. Mr. President, I accept the amendment of the gentleman on my right, but I want the rule made iron-clad. I think we will get enough propositions here by the 20th to frame constitutions for three or four states.

Mr. JAMES. My reason for seconding the amendment, Mr. President, is this; it does not bar any gentleman in this Convention from bringing before a committee any report on any matter

that he wishes to call the committee's attention to, and the matter going to the Convention simply gives to it another form and finally lands in the committee.

Mr. HART. Mr. President, I move that we refer the question to the committee on rules.

Mr. ANDERSON. I would like to ask if this resolution is adopted if it would prevent a person from introducing an amendment when the committee should report?

The PRESIDENT. No, it is only on the introduction of more matter, or the presentation of new matter to be inserted.

Mr. EVANS (Weber). I fully agree with the idea of the gentleman about these general propositions being introduced, and I think they ought to be cut off. But, we will find when we come to make up the Constitution that perhaps something has been omitted that is not reported from any of the committees at all, which ought to be inserted in the Constitution—something that is required by the Enabling Act. That would be a proposition for insertion in the Constitution, and yet if we take this action, we would be precluded from introducing it. But, in matters of absolute necessity I say, where something might have been overlooked, I think that ought to be introduced. It may be the only way by which we could get it into the Constitution, because the committees may not report upon it at all.

Mr. SQUIRES. Mr. President, I cannot see the necessity of the remarks of the gentleman from Weber. The report of my committee of an article of the Constitution is subject to such an amendment, and if anything in the report of that committee has been omitted either by carelessness or negligence, or any other way, it can certainly be substituted and added to the report of that committee and made a part of the Constitution. I want to shut off

this tide of propositions that are coming in here every day from other state constitutions. If nothing had been presented except new matter, I would have been the last man to arise and attempt to check it, but these propositions mostly are copied by the parties out of books that we have access to, and every committee has access to, and it only lumbers up our details and consumes the time of the committees, and I hope the Convention will see it in the same light and make this rule iron-clad, that after the twentieth day's session no new propositions shall be presented to the Convention for adoption. If there is any new matter it can be presented to the committees after that date and considered by them.

The PRESIDENT. The question is on the motion of Mr. Hart to refer to the committee on rules.

Lost.

The PRESIDENT. The question is on the amendment offered by Mr. Evans.

Lost.

The resolution was adopted.

Mr. EVANS (Weber). Mr. President, I desire to introduce the following resolution:

Resolved, that the delegate from Juab county, Mr. Coray, be called before the bar of this Convention by the President to explain what, if any reason, he had for using disrespectful language in his statement wherein he said in substance that the letter of a fellow delegate, Mr. Moses Thatcher of Cache, should be stricken from the minutes for the reason that the same is political buncombe, and if no sufficient reason be given therefor, said delegate be required to withdraw the language used.

I move the adoption of the resolution and if I can get a second I will state the reason.

Mr. ROBERTS. I second the motion.

Mr. EICHNOR. Mr. President, I move to lay the resolution on the table.

SEVERAL DELEGATES. Second the motion.

The PRESIDENT. Gentlemen, you have heard the motion to lay this reso-

lution on the table. All in favor say aye.

Mr. CREER. Mr. President, I call for the ayes and noes upon that.

The PRESIDENT. The ayes and noes are called for.

Mr. EVANS (Weber). Mr. President, the chair had recognized me, I had a second to the motion, and I had the floor. I desire to make some remarks upon it. The gentleman simply took me from my place and interposed a motion before any remarks had been made. I now ask respectfully the attention of the chair to the place which I occupied. I had been recognized and was waiting for the chair to put the motion so that I might make a remark.

Mr. EICHNOR. Mr. President, I arise to a point of order. In the first place, this motion to lay a proposition or resolution upon the table is not debatable. In the second place, I was recognized by the president. I was standing here, and waited until the president recognized me, and then I made the motion. I think my motion is properly before the house, and I claim the gentleman from Weber County is out of order.

Mr. EVANS (Weber). I arise, Mr. President, to a question of personal privilege. I admit the motion to lay upon the table is not debatable, but I had the floor; I was recognized.

The PRESIDENT. The gentleman had taken his seat.

Mr. EVANS (Weber). The gentleman simply rose in his place while I had the floor. There was nothing—

Mr. EICHNOR. You don't dispute that I was recognized by the president?

The PRESIDENT. This is all out of order. This thing has been passed upon.

Mr. BUYS. Mr. President, I would like to hear the resolution read again before passing upon it.

The PRESIDENT. It has been tabled.

Mr. CREER. I called for the ayes and noes before the result was announced.

The PRESIDENT. I had not announced the result. The ayes and noes were called for. The secretary will call the roll.

Mr. EVANS (Utah). Mr. President, I would like to know if the ruling of the chair is that when there is a proposition introduced, or resolution properly seconded, while the mover of that resolution has the floor, if a member has the right to jump up and move that it be tabled. Do I understand that that is the ruling of the chair upon this question?

The PRESIDENT. The ruling of the chair is—

Mr. SQUIRES. Mr. President, I arise to a point of order. There is nothing before the house but the roll call. This is a hypothetical question the gentleman is trying to get a decision on, just as a gentleman did yesterday, who was called down by a member of his own party.

Mr. EVANS (Utah). Mr. President, I simply ask for information.

Mr. EVANS (Weber). Mr. President, I rise to—

The PRESIDENT. The ayes and noes are called for.

Mr. EVANS (Weber). Mr. President, I simply arise to a question of personal privilege before the roll call, and I desire to explain to the chair and my fellow delegates that the summary treatment which I have received I think is unmerited. I do not desire anything of a political nature in this thing. My idea was simply to remove any idea which any delegate might have entertained respecting that matter; and since I have not been permitted to speak, I want to say this, further, by way of personal privilege, that—

Mr. SQUIRES. I admit that the gentleman is arguing the main question—

Mr. EVANS (Weber). I do not intend to.

Mr. SQUIRES.—Under the cloak of

a personal privilege. He is not in order, clearly.

Mr. EVANS (Weber). I am not doing it. Gentlemen, if you want to throttle me, you can do it. You have the power. Proceed, if you desire. If you don't want to treat a gentleman here upon the floor with respect, I can stand it, if you can. Here is a man lying sick, and suffering. He was insulted—

The PRESIDENT. I think the gentleman should not discuss this proposition. It has been passed upon. The question is the vote by the ayes and noes—the calling of the roll.

Mr. THORESON. Mr. President, I call for the reading of the resolution. Let us know what we are voting on. We could not hear the reading from here.

The PRESIDENT. The question being called upon is the tabling of it.

Mr. BOYER. I call for the reading of the motion we are about to vote upon.

Mr. JAMES. I call for the regular order of business.

The PRESIDENT. The ayes and noes are the regular order.

Mr. HART. Mr. President, I would like to have a ruling on that before the secretary calls the roll. I would like the chair to give a ruling upon that—whether the gentlemen are to be compelled to vote upon a question without knowing what they are voting upon. I think it is a personal privilege of every member here before he votes, to know what he votes for.

The PRESIDENT. He is voting upon the proposition of tabling the resolution of Mr. Evans.

Mr. HART. I ask to have the resolution read, Mr. President.

The PRESIDENT. The resolution shall be read.

The secretary then read the resolution.

Mr. BOYER. Mr. President—

The PRESIDENT. The secretary will proceed to call the roll.

Mr. BOYER. As I now understand the proposition, the ayes is to table the resolution?

The PRESIDENT. Yes, sir.

The secretary then called the roll and the vote was as follows:

AYES—54.

Adams	Kearns
Allen	Kimball, Weber
Anderson	Lambert
Bowdle	Larsen, L.
Brandley	Larsen, C. P.
Button	Lowe, Peter
Cannon	Lund
Chidester	Mackintosh
Christianson	Miller
Clark	Moritz
Coray	Murdock, Beaver
Crane	Murdock, Summit
Cushing	Page
Driver	Peterson, Grand
Eichnor	Peterson, Sanpete
Eldredge	Pierce
Emery	Ricks
Farr	Robinson, Kane
Gibbs	Ryan
Goodwin	Shurtliff
Green	Squires
Haynes	Stover
Hill	Strevel
Hyde	Symons
James	Thompson
Jolley	Van Horne
Keith	Williams.

NOES—44.

Barnes	Lowe, Wm.
Boyer	Lowe, Cache
Buys	Maeser
Call	Maloney
Corfman	Maughan
Creer	McFarland
Cunningham	Murdock, Wasatch
Engberg	Nebeker
Evans, Weber	Partridge
Evans, Utah	Peters
Francis	Raleigh
Hammond	Richards
Hart	Roberts
Halliday	Robertson
Heybourne	Robison, Wayne
Howard	Sharp

Hughes	Snow
Johnson	Thoreson
Kerr	Thorne
Kimball, Salt Lake	Thurman
Lemmon	Warrum
Lewis	Whitney.

The PRESIDENT. The resolution is tabled.

Mr. SQUIRES. Mr. President, I move we adjourn.

Mr. ELDREDGE. Before that motion is put, I would like to ask to be excused to-morrow from attending the session.

The PRESIDENT. If there is no objection the gentleman will be excused.

The Convention then adjourned.

SEVENTEENTH DAY.

WEDNESDAY, March 20, 1895.

The Convention was called to order by President Smith.

The roll was called by the secretary and the following named members were found in attendance:

Adams	Lemmon
Allen	Lewis
Anderson	Low, Wm.
Barnes	Low, Peter
Bowdle	Low, Cache
Boyer	Lund
Brandley	Maeser
Button	Mackintosh
Buys	Maloney
Call	Maughan
Cannon	McFarland
Chidester	Miller
Christianson	Morris
Clark	Moritz
Coray	Murdock, Beaver
Corfman	Murdock, Wasatch
Crane	Murdock, Summit
Cunningham	Nebeker
Cushing	Page
Driver	Partridge
Eichnor	Peters
Eldredge	Peterson, Grand
Emery	Peterson, Sanpete
Engberg	Pierce

Evans, Weber	Preston
Evans, Utah	Raleigh
Farr	Richards
Francis	Ricks
Gibbs	Roberts
Goodwin	Robertson
Green	Robinson, Kane
Hammond	Robison, Wayne
Hart	Ryan
Haynes	Sharp
Halliday	Shurtliff
Heybourne	Snow
Hill	Spencer
Howard	Squires
Hughes	Stover
Hyde	Strevell
Ivins	Symons
James	Thompson
Johnson	Thoreson
Jolley	Thorne
Kiesel	Thurman
Keith	Van Horne
Kearns	Varian
Kerr	Warrum
Kimball, Salt Lake	Wells
Kimball, Weber	Whitney
Lambert	Williams
Larsen, L.	Mr. President.
Larsen, C. P.	

Prayer was offered by Rev. D. R. Lowell, chaplain of the 16th Infantry.

The journal of the sixteenth day's session was read, corrected and approved.

Mr. WELLS. I ask the unanimous consent of the Convention to introduce a resolution in regard to the stenographer, and I will read it.

(Reads.)

Whereas, Frank E. McGurrin is the official and sworn stenographer of this Convention, and

Whereas his daily and continuous presence is necessary to the orderly proceeding of the Convention; and

Whereas, the said officer has been required to attend the sitting of the third district court in this city as a witness, therefore, be it

Resolved, that the said court be, and is hereby respectfully requested to discharge the said Frank E. McGurrin from attendance on said court at the earliest convenience, and, be it further

Resolved, that a committee of two be appointed by the president to forthwith

present a copy of this resolution to said court.

Mr. EVANS (Weber). There ought to be an addition to that resolution. I see his brother is present here to take his place during his absence. I move that F. T. McGurrin act as the official stenographer in the absence of Mr. F. E. McGurrin.

Mr. WELLS. I have no objection to that.

Mr. JAMES. I understand this to be an addition.

Mr. EVANS (Weber). Yes, sir; that his place is being filled during his absence by his brother.

Mr. SQUIRES. I think, if we accept that, it would show by this resolution, a copy of which will go to the court, that Mr. McGurrin's place is occupied, and they might not be willing to excuse him from the court. If that is put in as a separate resolution, I think it will accomplish the same end, without notifying the court that his place is filled.

Mr. EVANS (Weber). We would not have any official stenographer in the meantime.

Mr. THURMAN. What is the use of this resolution. The gentleman is the official stenographer of this Convention and he simply will get back here just as quick as he can get away from the court, and he will represent to the court that his duties are here; it seems to me that it is entirely unnecessary to encumber the record with a resolution of this kind; his excuse has been made and he has been excused for non-attendance. I am opposed to the resolution for the reason that it is unnecessary; wholly unnecessary.

Mr. VARIAN. As I understand it, the court does not know anything about it. That the prosecuting attorney has subpoenaed Mr. McGurrin and he is in attendance there as a witness waiting. If this matter can be brought to the attention of the court I doubt not but some arrangement can be made whereby he would be put upon the stand and re-

lieved at once. It is not out of the ordinary course to do that, and, moreover, I believe that if the Convention insisted upon it, the court would not insist upon the attendance of its officers any more than one of its members.

Mr. KIMBALL (Weber.) I move an amendment to the amendment of the gentleman from Weber, that the official stenographer of this Convention, in case of his absence unavoidably, that he be authorized to appoint a competent reporter to take his place.

The motion was agreed to.

Mr. VARIAN. Inasmuch as the resolution as it now stands is contradictory and absurd upon its face, and the proposition or resolution is lost, I move to lay the whole matter upon the table.

The motion was agreed to.

Mr. BUTTON. I would like to ask if it does not take two-thirds majority to carry an amendment like that?

The PRESIDENT. I think not.

Mr. CORAY. I would like to make a statement in regard to what occurred here on the floor yesterday in respect to one of the delegates; it was my understanding from a statement of Mr. Thatcher's that he was but slightly ill and would be here in a few days, but I have since learned that he is seriously ill. Had I known that, I would have made no such remarks as I made here yesterday, and on that condition, I would like to withdraw those remarks. I did not know that Mr. Thatcher was dangerously ill.

The PRESIDENT. If there is no objection the gentlemen will be permitted to withdraw his remarks.

Mr. CHIDESTER. I have a resolution here to offer, and in explanation I will say that the committee on election have investigated the matter in regard to another clerk, and when the resolution was offered—

Mr. THORESON. I think the resolution is out of order.

The PRESIDENT. Petitions and me-

morials are in order now; the point is well taken.

Reports of standing committees are in order.

Mr. EVANS (Weber). In the absence of Mr. Varian, who is the chairman of the sub-committee on rules, the committee on rules met and considered the propositions which were submitted, as to the amendment of rule 21, and beg leave to submit the following report:

Your committee on rules, to whom was referred several propositions to amend rule 21, beg leave to report that we have had the same under consideration, and recommend that rule 21 be amended by adding at the end of said section the words, "upon a subsequent day."

D. EVANS,
For Committee.

Mr. EVANS (Weber). I move you, Mr. Chairman, that the report of the committee be adopted and the amendment be made to the rules.

The motion was agreed to.

Mr. EICHNOR. As chairman of the committee on municipal corporations, I beg leave to submit our report of the various propositions that have been submitted to us. We have framed a report which might be termed a composite report.

The PRESIDENT. The report will be read and referred to the committee of the whole.

Said report was then read by the secretary as follows:

Your committee on municipal corporations respectfully report for your consideration the accompanying article on municipal corporations and recommend its adoption.

We also report back the following propositions reported to us—some of the provisions of which we have utilized, in part or in whole, and some we have not:

File No. 10, by Eichnor, of Salt Lake City.

File No. 11, by Chidester, of Garfield County.

File No. 18, by Thoreson, of Cache County.

File No. 43, by Allen, of Piute County.

File No. 62, by Cushing, of Salt Lake County.

File No. 64, by Eichnor, of Salt Lake County.

File No. 75, by Peters, of Box Elder County.

File No. 79, by Francis, of Morgan County.

File No. 81, by Francis, of Morgan County.

File No. 106, by Cushing, of Salt Lake County.

File No. 107, by Cushing, of Salt Lake County.

File No. 108, by Shurtliff, of Salt Lake County.

File No. 116, by Thoreson, of Cache County.

We also recommend that files No. 18 and 107 be referred to the committee on revenue and taxation.

EICHNOR,
Chairman.

Mr. VARIAN. Is that a proposition to be inserted in the Constitution?

The PRESIDENT. Yes, sir, as I understand it. It is a matter to be referred to another committee.

Mr. VARIAN. I call the attention of the chair to the rule which evidently contemplates those matters should go to the committee of the whole and not take up the time of the Convention by reading them.

The PRESIDENT. That is where they are going, but this is a separate report.

Mr. VARIAN. I call your attention to it; it is unnecessary to read every report. If every report is read in that way, the object of the rule is done away with.

The PRESIDENT. That goes to the committee of the whole.

Mr. RICKS. I have a report on schedule, miscellaneous and future amendments, which I would like to have read.

The secretary then read said report as follows:

MR. PRESIDENT:

Your committee on schedule, miscellaneous, and future amendments beg leave to report that we have under consideration for insertion in the Constitution an article on prohibition, and as the article is one in which the larger cities, Salt Lake and Ogden, are directly interested, and as neither of the cities

mentioned are represented in our committee, we would recommend that the membership of the committee be increased to eleven members, and that Salt Lake and Ogden be allowed representation.

RICKS,
Chairman.

Mr. SQUIRES. I move that this matter, as it really is in the form of an amendment to the rules, be referred to the committee on rules without consideration. Every proposition to change, alter, or add to the standing rules of the Convention shall be referred to the committee on rules and debate, and their report thereon shall lie over one day before action thereon. I submit that this is an addition to the rules, by increasing the number of the committee; it should go to the committee on rules.

The PRESIDENT. Under the rule, it goes to that committee. That is correct.

Mr. CANNON. I desire, as chairman of the committee on revenue and taxation and public debt, to return file No. 100 with the recommendation that it be referred to the committee on legislative.

The PRESIDENT. If there is no objection it will go to the committee on legislative.

Mr. CANNON. As chairman of the same committee, I desire to return file No. 109, a proposition by Mr. Stover, of Tooele County, relating to poll tax, with the recommendation that it be referred to the committee on elections and rights of suffrage.

The PRESIDENT. If there is no objection this will go to the committee named.

Reports of select committees.

The next is the introduction of ordinances and propositions for insertion in the Constitution.

Mr. CHIDESTER. Mr. President, I move the rules be suspended and that all propositions presented be read a first and second time by their titles and referred to the appropriate committee.

The motion was agreed to.

Mr. Hughes, of Cache, introduced file No. 126, a proposition relating to irrigation and water rights. Said proposition was read a first and a second time by its title and referred to the committee on water rights, irrigation and agriculture.

Mr. FARR. I have a communication from the Utah Metric Society. I move it be presented to this Convention and referred to the committee on public and state institutions.

Said proposition was read a first and a second time by its title and referred to the committee on public buildings and state institutions not educational.

Mr. William Low, of Box Elder, introduced a proposition on water rights and irrigation, which was read a first and a second time by its title and referred to the committee on water rights, irrigation and agriculture.

Mr. Kimball, of Salt Lake, introduced file No. 129, referendum proposition, providing that all important laws and amendments to the Constitution shall be referred to the electors, which was read a first and a second time by its title and referred to the committee on legislative.

The PRESIDENT. Unfinished business.

Mr. WELLS. Before we reach the special order, I desire to call attention again to a matter that has already been referred to, and that is the articles introduced by standing committees for insertion in the Constitution, under the rules, do not receive their first and second reading, but are read the first and second time by titles. Now, I do not know whether it is contemplated by the committee on rules to have that amended or not, but it seems to me that it ought to be. Before we resolve ourselves into committee of the whole, I move that the preamble and declaration of rights be read the first and second time, the first time in full and the second time by its title. After we emerge from the committee of the whole

the rule says it goes direct to the committee on revision or it goes on the calendar, but it does not provide anywhere that it shall receive its first and second reading. I therefore move that the preamble and declaration of rights be now read the first time in full and a second time by its title.

The motion was agreed to.

The PRESIDENT. I believe there was a request, if I remember, that Mr. Whitney should read it first.

Mr. WELLS. I did make that request. I would like, by a unanimous consent, to withdraw it.

Mr. KIMBALL (Weber). I arise to an inquiry now. Under the rule, reports of the standing committees with propositions go to the committee of the whole to be considered there. By the motion just passed we take this report up with the propositions reported and read it a first and a second time as I understand. I want to understand now and I ask for information, whether it is subject to amendments as it is read at this time. My opinion is that any gentleman on this floor has the right to get up and amend it, and I certainly object to any procedure of that kind, until the matter has been considered in the committee of the whole. But, as it now stands, the Convention having adopted Mr. Wells' motion, my opinion is that any gentleman can get up and move amendments and have the whole discussion on that subject right at the present time on the floor of this Convention, and I ask for information whether that is the proposition now that it can be amended and read the first and second time.

Mr. WELLS. I move that it be decided to be the sense of the Convention that on the first and second reading of this matter it be not subject to amendment.

Seconded.

Mr. VARIAN. I arise to a point of order; this resolution that has been carried is certainly an amendment to

the standing rules of the Convention. I don't see myself its expediency.

Rule XIX provides:

(Reads rule 19.)

I assume that that action has been taken as to this particular matter. I know it has been printed, because I have seen it, and I presume it has been referred to the committee of the whole, and it has been indicated in the journal of this Convention, fixing the hour for the consideration of that report. Now, the Convention, by resolution, inadvertently it seems, has attempted to displace or at least interfere with the operation of this standing rule, which has, so far as this particular matter is concerned, gone into execution. It has passed from the Convention and gone to the committee of the whole.

The PRESIDENT. The point of order is well taken. The matter had already been referred to the committee of the whole.

Mr. WELLS. I submitted the motion and asked for a suspension of the rule.

The PRESIDENT. The question of suspension was not mentioned.

Mr. KIMBALL (Weber). I arise to a point of order. The gentleman from Salt Lake is out of order. The matter has been referred to the committee of the whole, it is not before the Convention, and there can be no motion made with regard to it.

The PRESIDENT. Shall this part of the record, made in this motion, be effaced?

Mr. VARIAN. Is there anything before the Convention?

The PRESIDENT. No, sir.

Mr. VARIAN. I move we take up the special order.

The PRESIDENT. Special order.

Motions and resolutions are in order.

Mr. CHIDESTER. I believe this should come in in the report of the standing committees, but I ask the consent of the Convention to introduce this resolution. Now, it is a verbal report of the committee on elections, with regard to the

clerk—the hiring of an additional clerk:

Resolved, that the committee clerks confine their labors to reports of committees and the balance of their time under the direction of the chief clerk, and that the engrossing clerk shall be required to devote his time to the assistance of the chief clerk when he is not actually engaged in enrolling and engrossing.

It appears there are ample clerks to do the work of this Convention, or at least the committee has so considered it; and we believe that the committee clerks are occupied a great deal of the time doing the typewriting for members of this Convention that they should do themselves, and if this was done by the members of the Convention, and if they wrote their own letters and their own propositions that are brought and submitted to be inserted in the Constitution, then the clerks would have time to devote to the assistance of the chief clerk, and if that is done, there would be no need, as we believe, in having an additional clerk.

The PRESIDENT. What will you do with this report?

Mr. CHIDESTER. I move that this be adopted.

Seconded.

Mr. THORESON. I understand that on one of the first days of the session, the motion was made and carried that the enrolling and engrossing clerk be an assistant to the chief clerk; we are now going over the same ground.

Mr. CHIDESTER. It may be a fact, as the gentleman states, but it may, nevertheless, be misunderstood by the engrossing clerk, and also by the committee clerks and the members of this Convention.

Mr. SQUIRES. I would like to have that report read once more.

Said report was again read by the secretary.

Mr. SQUIRES. I think the best service we could get out of these clerks

will be lost if they have to divide their time between two masters. If we make them subject to the chief clerk and subject to the chairmen of the committees, I think their best service would be lost. I move that that report be amended in that particular, and the amendment will be, when not engaged in committee work.

Mr. CHIDESTER. That is just exactly what I oppose. The committee clerks will not know anybody who is their master and it will be just the same as it has been for the past two weeks. They will be at the call of any one. The object is to get it so that their time will be first to the committee work and then the balance of the time that they have to spare will be under the chief clerk's management.

Mr. KIMBALL (Weber). I move that the resolution and the whole matter pertaining to it be laid on the table.

Seconded.

The motion was agreed to.

Mr. KERR. I move the adoption of the following resolution:

Resolved, that the report of the committee on education and school lands be made the special order for consideration by the committee of the whole on Friday at 3 p. m.

The motion was seconded.

Mr. CANNON. I would like to ask the gentleman why not take it up to-morrow?

Mr. KERR. I understand that it is probable the report of the committee on preamble and declaration of rights will not be disposed of to-day, and I understand also that there are a number who desire to consider the report of the committee on education and school lands further before it is brought before the Convention. There are some who object to some provisions in the report. Personally, I am willing that they should be given an opportunity to look up the subject before it is considered. The report has been printed.

Mr. SQUIRES. I ask the gentleman

why he fixes the hour? We have an order of business, which is a special order, and if we reach that order of business before three o'clock, we could take it up at that hour. I don't think it is necessary to fix the hour.

Mr. KERR. I am not particular as to the hour.

Mr. SQUIRES. I move that the hour of three p. m. be stricken out.

The motion was agreed to.

The PRESIDENT. It will be referred to the committee of the whole on Friday.

Mr. RICKS. I move we now take up the consideration of the preamble and declaration of rights as a committee of the whole.

Mr. SQUIRES. That motion scarcely covers the ground. I now move that we resolve ourselves into a committee of the whole, to consider the report on preamble and declaration of rights.

Mr. EVANS (Weber). I want to call attention to rule 20 on that question, the latter portion of it. "A motion to rise and report progress shall be in order at any time and be decided without debate." "A motion to rise is not in order until each section and the title have been considered, unless the limit of time has expired."

It seems to me the time ought to be stated, that we go into committee of the whole to consider the report on preamble and declaration of rights for an hour and a half, otherwise we will be in a committee of the whole and unable to get out of it, unless we complete the section entirely. I therefore ask that it be amended and that one hour and a half be inserted.

Mr. SQUIRES. I accept that amendment.

The motion as amended was agreed to.

The Convention then resolved itself into committee of the whole, with Mr. Squires in the chair.

COMMITTEE OF THE WHOLE.

The CHAIRMAN. The secretary will

read the report of the committee on preamble and declaration of rights by sections.

Mr. WHITNEY. May I interrupt to offer an amendment?

The CHAIRMAN. I should think not.

Mr. VARIAN. I was going to make a motion that we read it by sections and have the matter open to amendment as read. What purpose is to be gained by reading this matter twice?

The CHAIRMAN. If there is no objection, the report will be read by sections and amended.

The secretary then read section one as follows:

Section 1. All men have equal, inherent, and inalienable rights, among which are these:

To acquire, possess and protect property; to worship according to the dictates of their conscience; to peaceably assemble, protest against wrongs, and petition for redress of grievances. To freely communicate their thoughts and opinions, being responsible for the abuse of that right.

Mr. WHITNEY. May I offer an amendment now?

The CHAIRMAN. Yes, sir.

Mr. WHITNEY. I wish to amend section 1 of article 1 of the declaration of rights. The first and second line of section one reads now: "All men have equal and inherent and inalienable rights, among which are these." I wish to amend by inserting the following lines in lieu of those two lines, "All men have the inalienable right," so that the section will then read, "All men have the inalienable right to enjoy and defend their lives, and liberties," etc.

The amendment was seconded.

Mr. WHITNEY. My attention has been called to the fact that the section as it now stands involves what is called hegelism in rhetoric, and the amendment I suggest will improve the rhetorical construction, without changing the meaning. It would be proper the way it now stands, if we should read it, "all men have equal, inherent, and inalienable rights," and it would be

proper to enumerate these rights by saying, "the enjoyment and defense of their lives and liberty, the acquiring, possession, and protection of property," etc., but to obviate that change I suggest this other, "all men have the inalienable right to enjoy and defend their life and liberty." I have another amendment to the same section. May I present that also?

The CHAIRMAN. I think we ought to pass upon each amendment as it is made.

The amendment was agreed to.

Mr. WHITNEY. The other amendment I wish to suggest in that section is merely a transposition of the last two clauses so that it will read, "To freely communicate their thoughts and opinions, being responsible for the abuse of that right. To peaceably assemble, protest against wrongs, and petition for redress of grievances."

I think this reading makes the clause more consecutive and strengthens it. I move that change be made, merely the transposition of the clauses.

Mr. FARR. I would like the reading of that motion.

The CHAIRMAN. It is just merely a transposition of the last two clauses.

Mr. VAN HORNE. It seems to me that the present order it is in is the most consecutive. I take, that the right to peaceably assemble and protest against wrongs and petition for redress of grievances contemplates the assembling for the purpose of communicating their thoughts freely to each other on the subject of the petition for the redress of the grievances, and on that of assembling where they communicate their thoughts, they are only responsible for the abuse of the right. It seems to me that the order as it is in at the present is the logical one and had better stand.

Mr. IVINS. I would like to ask if that is not a matter that should be properly left to the committee on compilation and arrangement? The amendment provides for no change of any word.

No change in the language, it is simply a transposition, and properly, in my opinion, should be left to the committee on compilation and arrangement. Therefore, it seems to me, that the amendment is unnecessary.

The amendment was rejected.

The secretary then read the second section as follows:

Section 2. All political power is inherent in the people, and all free governments are founded on their authority and instituted for their equal protection and benefit, and they have the right to alter or reform their government as the public welfare may require.

Mr. SNOW. I move to amend section 2 by striking out the words on page 2 and line 5, "their government as" and insert in lieu thereof the words "the same whenever," and insert the word "good," and after the word "require," upon the same line, to insert the word "it," so that the section as amended, would read, "all political power is inherent in the people, and all free governments are founded on their authority and instituted for their equal protection and benefit, and they have the right to alter or reform the same whenever the public good may require it."

The amendment was seconded.

Mr. WELLS. I oppose this amendment and hope it will not prevail. I think it is very much stronger the way it is put now.

Mr. VARIAN. I would like to ask the chairman of the committee what is the necessity of a declaration like that; it is simply affirming and reaffirming a principle that there is no necessity of. There is no necessity for the whole declaration.

Mr. WELLS. I will state probably one-half of the constitutions of the states in the United States have the same provision; I think when it comes to a matter of a declaration of rights, that it is very pertinent to provide that all political power is inherent in the people.

The amendment was rejected.

Mr. VARIAN. Permit me to suggest—I understood, at least, in the reading of these various sections, it was not necessary to adopt them; if there is no amendment offered we pass on to the next section. When we have concluded, I suppose the motion will be that the committee rise and report progress, and report these articles, as amended by the committee, to the Convention for recommendation, and the Convention may or may not adopt them.

The secretary then read section 3 as follows:

The State of Utah is an inseparable part of the Federal Union, and the Constitution of the United States is the supreme law of the land.

The secretary then read section 4 as follows:

The rights of conscience shall never be infringed. Perfect toleration of religious sentiment is guaranteed. The state shall make no law respecting an establishment of religion or prohibiting the free exercise thereof; no religious test or property qualification shall be required for an office of public trust, or for any vote at any election; nor shall any person be incompetent as a witness or juror on account of religious belief or the absence thereof. There shall be no union of church and state, nor shall any church dominate the state, or interfere with its functions. No public money or property shall be appropriated for or applied to any worship, exercise, or instruction, or for the support of any ecclesiastical establishment.

Mr. ROBERTS. In line 10 of that section, I move the insertion of the following after the word "thereof:" "No person shall be compelled to attend, erect, or support any place of worship, or maintain any minister against his consent."

The section, as it now stands, provides for no union of church and state, and that no public money or property shall be appropriated for or applied to any religious worship, exercise, or instruction, and as this is a declaration of rights affecting particular individuals, it seems to me that this addition ought to be made to that section—"No

person shall be compelled to attend, erect, or support any place of worship, or to maintain any minister against his consent." I wish to say it is a clause from the constitution of Tennessee in the bill of rights.

Mr. FARR. Will not that open up a loophole so that if a man promised to help pay for the erection of a church and the building was started and partially completed, could he not avoid his promise by pointing to the declaration here, and fall back on this part of the Constitution? There is a question there.

Mr. WHITNEY That is provided for in the first part, "the rights of conscience shall never be infringed."

Mr. CHIDESTER. I offer the following amendment to line 8, by adding—

Mr. ROBERTS. I arise to a point of order; I think that the matter that I presented to the committee is before the committee and no disposition has yet been made of it.

The CHAIRMAN. The gentleman is correct.

Mr. EICHNOR. I am opposed to the amendment. This view, as presented by Mr. Roberts, is taken from various constitutions of the United States. It arose in Massachusetts; Massachusetts framed the first constitution in 1780; in the constitution of Massachusetts and several of the other eastern states, they made it compulsory for a man to belong to a church. Now, I do not think there is anything of that kind west of the Mississippi river. If we insert that amendment as proposed by the gentleman from Davis County, why, we give it out to the world that we have that kind of people here. I think it is unnecessary here and I am opposed to the amendment.

The amendment was rejected.

Mr. IVINS. I propose as an amendment the insertion in line eight, after the word "election," the following, "except at elections where taxes are levied for special purposes, in which

case the Legislature may provide for a property qualification."

The motion was seconded.

Mr. ANDERSON. I will make an amendment to Mr. Ivins' motion, by striking out "or property qualification" in line 6, and at the end of the section, make another section to read like this: "No property qualification shall ever be required for any person to vote or hold office, except in elections levying a special tax, or creating indebtedness." In elections of that kind I think there should be a property qualification.

Mr. VARIAN. I second the amendment.

Mr. EICHNOR. I move as a substitute for the first and second amendment this provision:

"No property qualification shall ever be required of any person to vote or hold office, except as provided in this Constitution," and the committee on elections, if they have any other article, it will not conflict with this or whatever will be placed in the declaration of rights.

The substitute of Mr. Eichnor was seconded.

Mr. EICHNOR. If it is to be understood that a measure is to be submitted at a later day, which will cover this ground, I will withdraw my proposed amendment.

Mr. VARIAN. I don't know what you other gentlemen will think about this question. It is a general proposition. I don't remember about the exact wording of it. I don't believe the people of this coming State ought to tie themselves upon this question in the Constitution. The restrictions upon the power of the Legislature ought to be just those that are deemed necessary and no more. As I understand the substitute offered by the gentleman from Salt Lake, the provision is very stringent; I would like to have the clerk read it once more.

The secretary then read the substitute offered by Mr. Eichnor.

Mr. VARIAN. The inquiry suggested by my friend from Washington County, seems to me to be very pertinent. Why should the Legislature be prevented, if it is in accord with the temper of the people, from prescribing certain property qualifications in certain classes of cases? Why should not the fixing of indebtedness upon the property of the State be determined by the men who have to pay the taxes? I confess for one, I cannot see. I think it is a very appropriate power. It should exist in the Legislature in the absence of any constitutional restrictions. Why should any special taxes be levied upon the property and not upon the ballots of the people? It should be levied upon the real and personal property which is owned in the State.

Why should not that encumbrance, levied upon my property and my brothers' property, be determined by me and them, in accordance with the exigencies and necessities of the occasion? I think you are making a mistake, if you are going to attempt to restrict the future legislation of the State in that all important matter. I think the Legislature ought to be left free and untrammelled in that matter. I think the Legislature coming fresh as it does from the people every two years may be safely relied on to represent the people, and their views and their ideas, in accordance with the particular changes and necessities of the time.

The world does not stand still. The law of its being will be progress and improvement in accordance with the universal law, and to encumber it with such a restrictive clause as that—tie up the Legislature for all time, or at least until a two-thirds majority of the voters, or whatever numbers you may in your wisdom pass upon, be received so as to amend the Constitution—I hope the committee will vote that down.

Mr. WELLS. I wish to state in behalf of the committee that their intention was that this restriction should only apply to general elections, and not to these special elections or to school elections; the matter had been already called to my attention by a member of the judiciary committee and the committee on elections and suffrage, and they said that they expected to bring in a provision here which will be almost the same as this, except that it will provide in school elections, and in elections involving the expenditure of money, that a property qualification may be exacted of the voter. I have no objection to that, and I think that the amendment proposed by the gentleman should carry.

Mr. VARIAN. I only wanted to test the sense of the committee on the proposition as made by the amendment—the second amendment of Mr. Anderson, I think it is.

Mr. THURMAN. I cannot agree with the honorable gentleman from Salt Lake, last upon the floor, that this matter should be left to the Legislature. I think if there is any power that the government may possess where a restriction should be placed in the Constitution itself it is upon the very subject now under consideration. I am fully in accord with the views of those who are willing to leave to the Legislature the right to fix a property qualification where the thing to be voted for is relating to money and money obligations.

Mr. VARIAN. Will the gentleman pardon me a moment? I did not mean to be understood in any other way. I was simply speaking as to the proposition now under discussion.

Mr. THURMAN. I understood the gentleman in a different way. I favor, however, the proposition of the gentleman from Salt Lake, Mr. Eichnor; probably the reason I do that is because being a member of the suffrage committee, and understanding the proposition that they

have under consideration, and the fact that it meets with the views of that committee and will be adopted, it seems to me the proper place is in the Constitution for this matter to rest. And it provides for that very thing. That is that no property qualification shall be exacted as a right to vote for candidates for office, which should exist in the State; but a property qualification may be established by the Legislature in cases of special taxes, or in such a case as the election in Salt Lake County last Monday for an indebtedness. I think the amendment proposed by Mr. Eichnor ought to prevail for the reason that it will be put into the Constitution in another and more appropriate place.

Mr. VARIAN. Is there any motion before this committee?

Mr. ANDERSON. If my second objects, I hold to my original amendment.

Mr. CANNON. I favor the amendment offered by the gentleman from Beaver County. I think the provision that he adds there, "no property qualification shall ever be required of any person to vote or hold office, except in elections referring to special tax or creating an indebtedness," covers the ground as it should be covered. I think that in all general elections no property tax should be required or provided for, but where the people who pay the taxes are the most deeply interested in the matter, I think it should be submitted to them and to them alone. I think that those who do not pay a property tax should have no voice in what indebtedness should be incurred, what liabilities should be placed upon the property of the county or State, as the case may be. For this reason, I shall support the amendment offered by the gentleman.

Mr. EICHNOR. I desire to speak now to my substitute. In the first place we have been the recipients of many admonitions not to place too much in our Constitution. In the second place, that we shall frame a Constitution which is symmetrical in all respects. Now, I

hold this: From my experience of the various constitutions I have not found a constitution where in the declaration of rights the word 'special tax' is mentioned. That belongs to the committee on elections, that is where it belongs.

This provision, no property qualification shall ever be required of any person to vote or hold office except as provided in this Constitution, does not state that that person shall vote to create the indebtedness, when he is not a property holder; that is not the idea of it, but it is this, if you please, put in the constitutional language, and I have followed the declaration of rights of a number of states in the United States, and if you examine them, you will find it so. Mr. Anderson's amendment is all right, only it is in the wrong place. It belongs to the committee on elections and rights of suffrage. I do not dispute the merits of that amendment, but in the declaration of rights avoid going into that business, as much as possible, and this I think meets the requirements of the general rule in the declaration of rights.

Mr. VARIAN. The gentleman who last spoke admits the fact that in dealing with this question some qualification should be specified. At least some such distinction should be made as suggested by my friend from Beaver County, but in opposition to this the gentleman from Salt Lake informs us that we are going to do something in the future which will make this all right; now, we cannot deal with these matters in that way. It will simply create confusion. We might just as well deal with this proposition when it is presented to us; we can get the sense of the majority of the Convention upon it, the sense of their views by getting this matter into shape, and when the other matter shall come in, if it shall be deemed necessary, a transposition of this in the declaration of rights can be made into some other part of the Constitution. Our rules provide for that, and that doubt-

less will have to be done in many instances, and you will observe that this very objection will be continually coming up; we will be met by the proposition from gentlemen from some committee that "our committee is considering that question and when we get ready to make a report, we propose to present the matter in the way that you wish to have it." You cannot deal with these questions in the future. The question before us is simply a proposition embodied in this section of the article as it is suggested. It may be amended, lost, or disposed of, but let that be done now, and not be waiting for some other committee that may have some question under advisement to bring on in the future. Therefore, I think we ought to pass upon this right now. If the committee on elections shall report that they have the same matter, then that question will probably be referred to the committee on arrangement and compilation.

Mr. EICHNOR. May I ask Mr. Varian a question?

The CHAIRMAN. Yes, sir.

Mr. EICHNOR. Do you hold that the amendment as offered by the gentleman from Beaver County has a proper place in the declaration of rights?

Mr. VARIAN. I see no objection to it. I make no question about that. We are only wasting time in a discussion of this kind. If it comes up from some other committee and we want to put it in some other part of the Constitution, it is just as effectual in one article as the other; it is just as binding upon the people and the Legislature. That is what I mean and that is what I claim, but we should not refuse to act upon the question because we are informed the matter will come in in another shape from another committee.

Mr. ANDERSON. This same thing is included in the declaration of rights of Idaho; that is a precedent.

Mr. BOWDLE. I am in sympathy and accord with the gentleman from

Salt Lake; I believe that this amendment ought to be made. If we are to leave each individual thing as it comes up with the prospects that it will go in somewhere else in the Constitution, we cannot make the Constitution unless we have the whole thing at our disposal at once. We must dispose of each section as it comes up and if that section should be offered later or a more appropriate one, it can be put in some other place by the committee on compilation and arrangement; they can dispose of that, but it has been well said if we allow a suggestion that some of the committee is cutting out this timber and framing it together, and is going to report upon it, and we delay our action in this matter, why, we do not know really where we are at any time. The suggestion that it may come from some other committee when their report may be brought in will not do.

Mr. EICHNOR. I do not wish to take the time, but, however, I would like to ask Mr. Bowdle if we are going to put this property qualification in the declaration of rights, why not put in the woman suffrage clauses?

The CHAIRMAN. Read Mr. Eichnor's amendment.

The amendment was thereupon read by the secretary.

Mr. KIMBALL (Weber). I think we had better pass on one proposition at a time and get rid of it.

Mr. HOWARD. I am certainly in favor of the change to be made in this section. We have heard a great many times that we should try to shut out lengthy articles. It appears a simple amendment is offered to this by striking out the words, "for any vote at any election," without doing anything to the rest, and it is left open for the Legislature. If any other committee of this Convention should bring in some article on the property qualification—if it would be in order I would make a motion—

The CHAIRMAN. It would be out of order.

Mr. IVINS. I shall ask now if I am right in the supposition that the question will be upon Mr. Eichnor's amendment?

The CHAIRMAN. The question will be upon the substitute offered by Mr. Eichnor.

Mr. IVINS. I wish to say, before the vote is taken—do I understand the vote is taken upon his substitute if in any way carried the amendments—I was willing to waive my amendment, believing that the substitute offered by Mr. Eichnor will place this question of qualification to vote right where it belongs.

In the report of the committee on elections, however, if the matter is to be voted upon, I still adhere to my amendment in preference to the amendment offered by the gentleman from Beaver County, from the fact that in the amendment which I have offered, it is provided that the Legislature may, if they deem proper, provide for a property qualification where a vote is to be taken upon matters that refer directly to the assessment of property taxes. In the amendment offered by the gentleman from Beaver it is simply stated that there should be no property qualifications except in the election where taxes are to be levied for private purposes. That in these cases it would be necessary and proper if there should be property qualification. I shall vote for Mr. Eichnor's substitute, upon the ground that I believe that it will place the matter where it properly belongs. I believe that the whole reference to property qualification ought to be stricken out in this bill of rights.

The CHAIRMAN. Do I understand you, Mr. Eichnor, that you desire to strike the words "property qualifications" out?

Mr. EICHNOR. In the sixth line; yes, sir.

The CHAIRMAN. I think your amendment comes at the end of the section.

Mr. EICHNOR. Yes, sir; I ask that the substitute be read again before the vote is taken.

Mr. VARIAN. I misunderstood that; that certainly makes it very binding. It certainly does not leave it open to the Legislature if the Constitution should fail to provide for a property qualification. If the Constitution should be adopted the Legislature would not have power, and I cannot see, under the circumstances, why my friend from Washington County can support that amendment.

Mr. EICHNOR. I will state my position. When the committee on election reports either Mr. Ivins' amendment or Mr. Anderson's amendment, as I claimed before, and no attorney on the floor can gainsay it, that it does not belong here; properly it belongs in another place.

Mr. VARIAN. Will the gentleman state why we cannot gainsay it?

Mr. KEARNS. I must agree with Mr. Varian; we cannot provide or look to the future. This Constitution is binding upon the future Legislature of the State. We would not have any use for legislatures for the next three hundred years if everything is provided for in this Constitution, and is binding upon them. I do not approve of that at all.

The CHAIRMAN. The vote will be taken on the substitute of Mr. Eichnor of Salt Lake.

The question was then put on the substitute of Mr. Eichnor and agreed to.

Mr. KIMBALL (Weber). I move to amend section four by striking out all of the section after it and including the word "no" in line two and inserting in lieu thereof the following—

Mr. HART. I rise to a point of order, for the reason we have just voted on that proposition and we cannot strike that out without reconsidering the vote of Mr. Eichnor, which inserted that clause.

Mr. CHAIRMAN. I decide the point.

is well taken, and a substitute can only be acted upon by a reconsideration of the vote.

Mr. KIMBALL (Weber). I appeal from the decision of the chair.

The CHAIRMAN. The gentleman has appealed from the decision of the chair. Shall the decision of the chair remain as the decision of the committee?

Mr. VARIAN. I want to submit to the gentleman from Cache County, and also to the chair, what the effect of such a proposition of parliamentary law as that would be, if that is the law. This is not an amendment, covering the same ground. When the matter incorporated by way of amendment at the end of the section became a part of the section, the section as a whole is still open to amendment. We cannot move to strike out particular words of the clause which has been adopted by the vote of the committee, but by adding something to the section as it originally stood, we change the entire subject matter in character to a more or less degree; in some instances it may be changed to a very marked degree. I think it has been in this case. It presents an entirely different question. Now, when you come to move to change the section still further, by an amendment, simply because that amendment includes a word or two words or three words of a section or clause that had been previously added by way of amendment, we are not precluded by that; otherwise you see how easy it would be to forestall all possible action by the Convention in putting into shape other matters in the section. I don't understand there is any authority upon that proposition. It certainly is not a good sensible proposition. Of course I do not speak with any personal reference. I am speaking of it as an abstract question. Now, the Convention adopted a certain proposition and they still adhere to that. It cannot be amended. Is that right? I think if they so desire it can be amended in accordance with

the suggestion of the amendment offered by the gentleman from Weber. But you see that this amendment as proposed and which the chair ruled out of order, covered not only the particular matter which had been adopted, but some other matters upon which the sense of the Convention is entirely to be taken. If there is anybody here that voted to pass upon this as a whole, they can, by amendment, move to divide the question. They can offer an amendment to as much of this section commencing with line so and so and by striking out up to and including the matter offered and admitted by the committee at the suggestion of Mr. Eichnor.

Mr. HART. I believe in the argument of the gentleman from Salt Lake as made, but not the application. I understand when a part of a clause is inserted you may afterwards, by motion, strike it out and also any other part of the clause, but in this case the question is an entirely different one. Here is an independent sentence that was inserted by the substitute of Mr. Eichnor. It was a particular proposition in regard to property qualifications. We assented to that proposition, as an amendment to this clause, but while I feel that we could reject the clause as a whole, I can tell that this part that has been adopted cannot be rejected, otherwise, there would be no end to it.

Mr. VARIAN. May I be permitted to ask the gentleman a question?

Mr. HART. Yes, sir.

Mr. VARIAN. Would not it be perfectly competent to ask to strike out the entire section 4?

Mr. HART. That is what I said.

Mr. VARIAN. And yet we have agreed to adopt certain propositions. Now, that is another question. If it is competent to move to strike the entire section as amended, why is it not competent to move to strike out a proposition of the clause as amended?

Mr. HART. I would like to answer by saying this proposition contains a

number of distinct topics, and it is almost a separate and distinct item from that passed upon by the proposition of Mr. Eichnor. It is a question of property qualification. Now, the gentleman comes along with a proposition of a different and distinct kind. If I understand the subject matter of it, he comes along with a different proposition entirely and moves to strike out that part of it which we have formally passed upon and moves to insert matters in regard to what property shall be exempt from taxation. I submit that this motion is out of order.

Mr. KIMBALL (Weber). I would like to ask you this question. Section 4 has not been passed upon by the committee, has it? When Mr. Eichnor's amendment is adopted it becomes a part of section 4, does it not?

Mr. HART. Yes, sir.

Mr. KIMBALL (Weber). Section 4 was still open to amendment and is, isn't it?

Mr. HART. Yes, sir.

Mr. KIMBALL (Weber). That is what I propose now, to still further amend section 4 by striking out a part of what Mr. Eichnor proposed and inserting this.

Mr. HART. The section is and would still be open to amendment, but to change it in regard to what Mr. Eichnor offered is a matter that we have already passed upon. It is a proposition that we have already passed upon and you now offer in its stead a distinct and separate proposition.

The CHAIRMAN. Shall the decision of the chair be sustained?

The question was then taken on the appeal from the decision of the chair, and the decision was sustained.

Mr. KIMBALL (Weber). I move now to insert in addition to section 4, the matter that I handed to the secretary, as an amendment to section 4. I move now to insert it as an addition to section 4, leaving out the words, "strike

out all section 4," and insert this as an addition.

Mr. EVANS (Weber). I would like to ask the gentleman from Weber County where he secured that amendment which he proposes.

Mr. KIMBALL (Weber). I do not suppose I am under any obligation to inform the gentleman where I get my knowledge. I get it anywhere I please and it makes no difference to this Convention or to the gentleman either, and I decline to answer.

Mr. EVANS (Weber). I simply ask respectfully, Mr. Chairman, for the purpose of obtaining information. I have some constitutions and they don't seem to have it, and if I could get the particular constitution from which it was taken I might perhaps investigate it.

Mr. KIMBALL (Weber). I will reply to that that I was not sent down here to be tutor to the gentleman.

Mr. EVANS (Weber). Will the gentleman inform me whether he found it in a letter on his desk?

Mr. KIMBALL (Weber). I won't answer any of your questions.

Mr. EVANS (Weber). I am opposed to this amendment simply because it would be hasty legislation. The provision may be good, but it was found upon the desk of some of the members. I am free to confess I found one on my desk, and I am not ashamed to say it, and I suppose the gentleman from Weber did the same thing, and I did not think it was right for this gentleman to put this thing on this committee as original, because others have received the same information.

Mr. KIMBALL (Weber). There is nothing original but sin, and you have that.

Mr. ROBERTS. I understand that this is a motion to add matter placed before us by Mr. Kimball and is now before the house.

The CHAIRMAN. Yes, sir.

Mr. ROBERTS. I desire to call attention to the second clause of this mat-

ter, which involves a very serious question. I take it no property, real or personal, in this State, except cemeteries, in use for private gain shall be exempt from taxation, or the title to which is vested in the State or in some county, municipality, or school district, in the State. I am of the opinion that if this clause should pass by the Convention, it would make taxable church property and property held for charitable institutions. That, sir, I believe is a very grave subject and should not be passed upon hastily at least.

I do not believe that this is a proper place for it. If it should be the sense of this Convention to tax church property, I do not believe its place would be in the bill of rights. I cannot vote to sustain this clause, because I am of the opinion that church property that is devoted wholly for the purpose of worship, or that property held by strictly charitable institutions, from which there is derived no profit to those who hold it, should be taxed at all; therefore, I cannot sustain this part of a proposition to add this clause to the bill of rights, and I therefore move you, Mr. Chairman, that that clause be stricken out.

Mr. KEARNS. I second that motion. I quite agree with my friend, Mr. Roberts. While I am not speaking for any church, we have charitable institutions that surround us here and I don't know what humanity would do if they did not exist. Take the old gray-headed, venerable men that fortune has not favored; they that have embraced the storms of winter and at the end are penniless, where could we send them, but to the hospitals, to be taken care of? We take the children that are left homeless—orphans, who have nobody to protect them; if we do not have an institution to take care of them, what are they going to do? I am sorry that an associate of mine would indorse such a clause as that. Yes, I am ashamed of it. If these institutions do not exist,

what is poor humanity going to do? I, for one, will not vote for anything of that kind, and I trust that any man who would hang his head in shame forever.

Mr. IVINS. I just want to state in a brief way that while I see no reasons why this amendment offered by the gentleman from Weber should not prevail, the only sufficient reason in my mind is that to be inserted in this bill of rights, it would be a place where it should not be. This very same question came up and was referred to by the gentleman from Salt Lake. This question of exemption from taxation—well and good. If it is in its proper place, it should be in the report of the committee on revenue, taxation and public debt, and I maintain that this bill of rights is not a proper place for it. Therefore, this amendment should be voted down and this matter left to come in its proper place and time.

Mr. KIMBALL (Weber). We are considering now a proposition that is to be reported from the committee. We cannot anticipate what some other committee is going to do. As my friend Mr. Varian says, it may do various things. There may be conflicting reports come in here, and undoubtedly will, and the committee on revision and compilation has got to reconcile them. When a proposition comes before the Convention or the committee of the whole for action, it is a poor argument to say that some other committee may report some different proposition or some similar proposition. We cannot anticipate what they are going to do. As to my friend from Summit County, I regret his sorrow and hope he will never have to hang his head for shame. As for my part, I believe that all the property in this Territory, except such as is exempt in that article, should be taxed regardless of whether it belongs to a religious society or a charitable society, or any other people. It should bear its proportion of the expenses of the public at

large, and if they own real estate or personal property, they should pay their proportion of the taxes whether it is a shame or whether it is not a shame. I say I am not ashamed of that proposition and I think it should pass this Convention.

Mr. CHIDESTER. There is no use of my saying much on that, because I do not believe in such a proposition and I hope it will not be adopted. In the first place, I am not in favor of putting into the bill of rights every proposition that should be considered by other committees and the proposition that is sought to be put in here, as I understand, is a proper subject matter to be handled by another committee, and if we continue to adopt such measures as this we will have the whole Constitution in our bill of rights.

Mr. VAN HORNE. As I understand this proposition, there are distinct matters involved in the motion. I ask for a subdivision or division of the motion that it may be acted upon section by section.

The CHAIRMAN. How will you have it divided?

Mr. VAN HORNE. By section.

Mr. KIMBALL (Weber). I consent.

Mr. VAN HORNE. My reason for doing that is that I see nothing whatever objectionable in the first two sections. I think that that section is one that is a part of the declaration of the bill of rights and comes properly under that head in our Constitution. The report of the committee on that subject is a matter for consideration by this Convention. I maintain in some respects it is better than the draft of the declaration of rights, for this reason, the report of the committee provides that no public money shall be given to such institutions. The draft, as submitted by the gentleman from Weber in this first section, provides that no public funds or property in this State—

The CHAIRMAN. I desire to understand, if the gentleman will answer my

question. What are you speaking to? I understood you were making a motion to divide. After we have passed upon Mr. Roberts' motion, the motion to divide can well be in order.

Mr. VARIAN. Does the chair rule that a motion to strike out part of the amendment that is offered is proper?

Mr. KIMBALL (Weber). His motion is to strike out my motion and in that way dispose of my motion.

Mr. ROBERTS. Excuse me, as I understand it, you submitted these three clauses as an amendment to the fourth section?

Mr. KIMBALL (Weber). The chair ruled that out of order and then I moved to insert it as an addition.

Mr. ROBERTS. Your proposition is to make these three clauses an addition to section 4. I moved to amend that amendment by striking out clause second of your matter. That was the amendment as I understood it.

The CHAIRMAN. The chair decides that the amendment is in order.

Mr. ROBERTS. It is the entire second clause that I desire to strike out. If I may again speak on this question before it goes to the house, I would like to. I want to urge again the importance of members considering the effect of that section if it shall be adopted. It means the taxation of church property of all sects and denominations in this Territory, and it means the taxation of all property held by charitable institutions. It is a fact that every church property used for public worship carries no material consideration of that sect, but they contribute their means to the establishment and support of such institutions, and I claim, sir, that property that is held for such laudable purposes and from which there accrues no material gain to those who have established it, this should be of right exempt from taxation, and I sincerely hope that members of this Convention clearly understand this proposition proposes to

leave that kind of property taxable in the proposed new State, and I sincerely trust for one that that part of the proposed addition to section 4 shall not prevail.

Mr. VAN HORNE. I understood that I had the floor and it was a point of order that took me from the floor. I have been standing here ever since. I am speaking now on the question whether that amendment of Mr. Roberts' shall prevail or not. I shall also speak on the other question. I say that the second section in my opinion is a perfectly proper one and one that should be guarded by this Convention. I believe that the whole people are interested in the fact that there should be exemption for property from taxation. I believe we have put into it and into our Constitution the most absolute liberty. By that I mean not only a man should believe in any so-called religion that he may choose, or that his conscience may dictate, or if that conscience is such that it does not believe—that is, recognize as a religion, that he have the freedom to believe that also. We have it put in all our constitutions that I have seen, and we have it here in the Territory. Now, the fact that a man can affirm, where he does not even believe in a God, and that his affirmation under pains and penalty of perjury, if he should falsely testify, the same as if he had sworn and called God to witness the truth of his testimony—is direct in line. We have to follow directly from that that there is no right in the State without absolute religious toleration, relief from the burden of taxation of property owned by those who believe in any creed or all creeds; the individual who has no creed, who knows nothing about the future, what is termed an atheist, is entitled to have the burden of taxation lessened upon him and his property by just so much as the revenue derived from the taxation of property of those who do not believe in a God will lessen it. It affects me personally

in no way whatever; but I have known of cases where church property in a great city went up in millions of dollars and under a rule like this was not subject to taxation. I do not think that this Convention should put itself upon record as relieving from taxation the property used by churches. I think they might as well exempt from taxation the lecture hall of the unfortunate infidels as to relieve from taxation this property or that cathedral of the devout believer. That is my idea of absolute toleration.

Mr. WELLS. I submit that this question at this time belongs to the committee on taxation and public debt, and should not be in the bill of rights. The gentleman from Weber says that we must not anticipate what they may do; the original result of that would be the whole Constitution would be headed, "declaration of rights." It is a question in regard to taxation pure and simple, and is as to whether church property shall be taxed or not. It has no part in the bill of rights. It does not belong here. The bill of rights as I understand it, is to determine and define the fundamental rights of the people of Utah, and this is a question of taxation. I submit that it should not be considered now.

Mr. KIMBALL (Weber). I differ with my friend from Salt Lake. It is true it may be a question of taxation, but it is also a question pertinent to the declaration of rights. We are now declaring what the Legislature can do. We are declaring what the State can do. We are giving notice that we adopt this proposition to the committee on revenue and taxation, as to what it can do in that respect. I say we have no right to wait for the action of that committee. We are to declare here what can and what cannot be done, and we are declaring, if we adopt this proposition, that the State shall tax all of that property equally. This is a declaration and it is not a matter of

legislation. It is not a matter that comes to the committee at all. It is a matter that should be declared here so we know when a state is organized that that property is subject to taxation.

Mr. VARIAN. I move to lay both amendments on the table.

The motion was seconded.

Mr. EVANS (WEBER.) I move a point of order. The motion to lay on the table cannot prevail.

The CHAIRMAN. The chair will call the attention of Mr. Evans to rule 20.

Mr. EVANS (Weber). Permit me to make a personal explanation. That exact question was before this Convention when the chairman of the committee, Mr. Kimball, occupied the chair and he raised the point of order himself.

The CHAIRMAN. The chair has not yet decided the point of order.

Mr. EVANS (Weber). Excuse me.

Mr. VARIAN. In such a matter, I think it has been decided here before and the gentleman had an opportunity to make a suggestion. May I make a suggestion right to the chair?

The CHAIRMAN. Mr. Evans has desired to offer his suggestion. The chair will accept suggestions from both of you.

Mr. VARIAN. I want to call attention to the fact that our rules provide that this question, not being excepted, applies in the committee of the whole. It is true that Roberts' rules of order are always made applicable, but so far only when not otherwise provided in these rules, and we cannot do it in any other way. That was the intention so far as I was concerned. I thought I understood it thoroughly when I participated in these rules to allow the committee of the whole to entertain this motion.

Mr. EVANS (Weber). I simply called attention to what occurred the other day. I took exactly the same position then that Mr. Varian takes now and insisted upon it, and cited our rules and

he overruled it. I simply want to know now, whether the rule is going to be changed, because in the other case it was a member from our side of the house who moved to lay on the table and in this case it happened to be a member from the other side of the house.

Mr. VARIAN. If there is anything of that kind to be brought here, I will withdraw the motion.

Mr. KIMBALL (Weber). It is not the same motion that was pending when the question was asked the other day at all. There was a proposition to lay on the table; not an amendment, not a purposed alteration of a particular law, but to lay itself upon the table in the committee of the whole. I ruled at that time that that was out of order. I still maintain it is out of order, for a committee of the whole to lay a proposition itself upon the table, but an amendment pending before the committee is allowable to be laid on the table.

The CHAIRMAN. I will have to rule the point is not well taken and the motion to lay upon the table is in order.

Mr. ROBERTS. I would like to ask if the motion to lay upon the table applies to the amendment or to the whole?

The CHAIRMAN. The chair decides that the motion to lay upon the table is all right.

Mr. ROBERTS. I simply ask to what extent the motion to lay upon the table goes. Whether the proposition to lay upon the table includes the amendment offered by myself and the whole as proposed in the addition to section 4.

Mr. VARIAN. The whole matter goes to the table.

Mr. CHAIRMAN. The whole matter goes to the table.

Mr. WELLS. Do I understand that if this is carried it will lay the amendment offered by Mr. Kimball to the amendment offered by Mr. Roberts upon the table only?

The CHAIRMAN. That is all.

Mr. WELLS. But the section itself is not laid on the table?

The CHAIRMAN. No.

Mr. VARIAN. I would like to be heard for one moment, if you will. In this rule 20, it does not say that the only things that are not in any other way—

Mr. IVINS. I submit that this discussion is entirely out of order. The point of order was raised. The chair sustained it. The question now recurs to Mr. Kimball's amendment, as to whether it shall be laid on the table. The gentleman is discussing the question that has already been decided.

The CHAIRMAN. The chair decides the point of order well taken.

Mr. HART. I rise to a question of personal privilege. I don't understand the decision of the chair is final. I do not desire to speak upon this at all, but if the chair has not finally decided upon that matter, I would like to be heard.

The CHAIRMAN. I shall have to declare all these matters out of order.

Mr. EVANS (Weber). I desire to appeal from the decision of the chair.

The CHAIRMAN. Shall the decision of the chair be sustained?

Mr. HART. I think this is a question of some importance because if a matter can be laid on the table, then debate can be kept in the committee of the whole and there will be no purpose in going into a committee of the whole, if you can take propositions in that way, and cut the debate off—

The CHAIRMAN. I think this is all out of order.

Mr. EVANS (Weber). I desire to say a word or two upon this proposition and I want to correct myself as to the remarks of a gentleman from Salt Lake, from which I inferred that he had the idea that I proposed to throw some feeling into the question. I assure him I did not intend to. I occupied the same position the other day that the gentleman from Salt Lake now occupies. I believed at that time I was

right and at that very time, it will be remembered that the gentleman from Washington County, Mr. Ivins, moved to lay on the table, and I proposed the matter respecting the settlement of the boundaries of the new State. The then chairman of the committee ruled that this motion to lay on the table was out of order and gave the most excellent reason why the motion to lay on the table should not have been voted down. I think, without any disrespect to the present chairman of the committee, it was the chairman of this committee who sustained the decision of the chair when we appealed from it.

Mr. VAN HORNE. The time having expired for which we went into a committee of the whole, I move we rise and report progress.

Mr. EVANS (Weber). I will be through in three minutes.

Mr. VAN HORNE. There is nothing excepting the time has expired.

The CHAIRMAN. I will call your attention to the fact we cannot possibly extend the time. I will have to entertain the motion from the gentleman of Salt Lake that the committee arise and report progress.

The committee then arose and reported to the Convention as follows:

The committee of the whole desire at this time to rise and report progress, having under consideration the adoption of the bill of rights.

The report was adopted.

The Convention then, at 4.40 o'clock p. m., adjourned.

EIGHTEENTH DAY.

THURSDAY, March 21, 1895.

The Convention was called to order at 2 p. m. by President Smith.

The roll was called by the secretary and the following members were found in attendance:

Adams	Larsen, C. P.
Allen	Lewis

Anderson	Low, Wm.
Barnes	Low, Peter
Bowdle	Low, Cache
Boyer	Lund
Brandley	Maeser
Button	Mackintosh
Buys	Maloney
Call	Maughan
Cannon	McFarland
Chidester	Miller
Christianson	Morris
Clark	Moritz
Coray	Murdock, Beaver
Coriman	Murdock, Wasatch
Crane	Murdock, Summit
Creer	Nebeker
Cunningham	Page
Cushing	Partridge
Driver	Peters
Eichnor	Peterson, Grand
Eldredge	Peterson, Sanpete
Emery	Pierce
Engberg	Preston
Evans, Weber	Raleigh
Evans, Utah	Richards
Farr	Ricks
Francis	Roberts
Gibbs	Robertson
Goodwin	Robinson, Kane
Green	Robison, Wayne
Hammond	Ryan
Hart	Sharp
Haynes	Shurtliff
Halliday	Snow
Heybourne	Spencer
Hill	Squires
Howard	Stover
Hughes	Strevell
Hyde	Symons
Ivins	Thompson
James	Thoreson
Johnson	Thorne
Jolley	Thurman
Kiesel	Van Horne
Keith	Varian
Kearns	Warrum
Kerr	Wells
Kimball, Salt Lake	Whitney
Kimball, Weber	Williams
Lambert	Mr. President.
Larsen, L.	

Prayer was offered by the Rev. R. Carson, of the African Methodist Episcopal Church.

The journal of the seventeenth day's session was read, corrected and approved.

A communication was received from the Y. M. C. A. Debating Society, inviting members of the Convention to attend the debate of that society on the question of prohibition.

The same was declined with thanks.

The PRESIDENT. Presentation of petitions and memorials are in order.

Reports of standing committees are in order.

Mr. VARIAN. There will be a report from the committee on rules in a moment.

A report from the committee on rules was received and read by the secretary as follows:

The committee on rules, to which the report from the committee on schedule, miscellaneous and future amendments, recommending that the membership of that committee be increased by adding thereto two members from the cities of Salt Lake and Ogden, was referred, beg leave to report the same with the recommendations that said committee be so increased.

C. S. VARIAN,
Acting Chairman.

The PRESIDENT. What will you do with the report of the committee?

Mr. VARIAN. I believe that has to lie over one day.

The PRESIDENT. Yes; under the rule it will.

Reports of select committees.

Mr. RICKS. If you will permit me, I would like to offer the report of a standing committee.

The PRESIDENT. If there is no objection, the gentleman may submit his report.

The secretary then read the report as follows:

Your committee on schedule, future amendments and miscellaneous respectfully report for your consideration the accompanying article on future amend-

ments to the Constitution. We also report the following propositions and recommend that they be filed:

No. 50, by D. C. Eichnor, of Salt Lake.

File No. 53, by J. F. Chidester, of Garfield.

RICKS,
Chairman.

The PRESIDENT. If there is no other report from the standing committees the introduction of ordinances and propositions for insertion in the Constitution is now in order.

Mr. BOWDLE. I have a proposition here I wish to offer and have it referred to the committee on legislative. It is a proposition for insertion in the Constitution, and I move that the rules be suspended and the whole proposition be read the first and second time by its title and then referred to the proper committee.

The motion was agreed to.

Said proposition was read a first and second time by its title and referred to the committee on legislative.

Mr. Maloney introduced a proposition relating to irrigation and water rights, which was read a first and second time by its title and referred to the committee on water rights, irrigation and agriculture.

Mr. Bowdle introduced a proposition against lotteries which was read a first and second time and referred to the committee on legislative.

Mr. Buys introduced a proposition providing for income tax, which was read a first and second time by its title and referred to the committee on revenue, taxation and public debt.

Mr. L. Larson introduced a proposition relating to salaries of public officers, which was read a first and second time by its title and referred to the committee on salaries of public officers.

Mr. Maloney introduced a proposition relating to the election of representatives, which was read a first and a second time by its title and referred to the committee on apportionment and boundaries.

The PRESIDENT. Are there any other propositions for insertion in the Constitution?

Unfinished business is now in order.

Mr. SQUIRES. I move we now resolve ourselves into a committee of the whole.

The motion was agreed to.

COMMITTEE OF THE WHOLE.

The Convention then resolved itself into a committee of the whole with Mr. Squires in the chair.

Mr. EVANS (Weber). Mr. Chairman, I would desire with the consent and permission of my second to withdraw my appeal which I put on yesterday from the decision of the chair. I do it in the interest of hastening business. I think it is unnecessary to carry it to a vote.

The CHAIRMAN. If there is no objection the appeal is withdrawn.

Gentlemen, we still have under consideration section 4 of this article.

Mr. VARIAN. The question before the house is to lie on the table, is it?

The CHAIRMAN. Yes, sir.

The question was then taken on the motion to lie on the table and the motion was agreed to.

The CHAIRMAN. Section 4 is still open for amendment.

Mr. SNOW. I move to strike out the word "is" in the third line, and insert in lieu thereof the following, "the rights of conscience shall never be infringed. Perfect toleration of religious sentiment shall forever be guaranteed." All through the section the word "shall" is used; for the sake of uniformity and harmony, I think "shall" ought to be inserted there. It does not make it any stronger, but it makes harmonious.

Mr. VAN HORNE. It seems to me the provision is better as it stands here. "Shall be" is the negative, and it is a limitation of the power of the Legislature to guarantee, and it is in the present tense and is guaranteed. I am opposed to the motion to amend it.

Mr. WHITNEY. I am also opposed

to the motion to amend it. I think it is shorter as it is, and it is on the fundamental law of every state, that it should guarantee that important matter.

The question was then put on a motion to amend, and the amendment was rejected.

Mr. ELDREDGE. I move to strike out all of section 4 after the word "no" in line 12, and insert in lieu thereof, "No public funds or property in this State, whether accruing from taxation or otherwise, shall be apportioned or used for the purpose of founding, maintaining, or aiding, directly or indirectly, any church, religious denominations, religious or secular society, or institution, society, or undertaking, which is wholly or in part under sectarian, ecclesiastical, or secular control."

Mr. THURMAN. I ask that the resolution or motion to amend be read again for the information of the Convention.

The secretary re-read the resolution.

Mr. VARIAN. I would like to hear the resolution that was laid on the table concerning the same matter read which was offered in yesterday's proceedings.

The secretary then read the resolution referred to.

Mr. BUYS. I would like to ask the gentleman from Summit County if he intends that this will also strike out the amendment that was passed yesterday that no property qualification shall ever be required in order to vote or hold office?

Mr. ELDREDGE. Not being present yesterday, I was not aware there was any amendment offered, but that this section was reached to-day.

Mr. BUYS. The section was amended yesterday as I understand it. I wanted to know whether it carries that with it?

Mr. ELDREDGE. I was not present yesterday. I was not aware there was any amendment attached to that section. My idea was to get the substance of everything in this amendment.

The CHAIRMAN. The chair will explain that yesterday a matter was offered in regard to this section, and it was purposed to add it to this section. Mr. Buys wants to know whether you want to strike out of this section the last sentence as printed. They were printed yesterday.

Mr. ELDREDGE. I will say in explanation my motion was only applied to that portion which is printed in the original bill of rights.

Mr. EVANS (Weber). Mr. Chairman, I desire to support the amendment offered by the gentleman from Summit; I would like to be permitted to have it so I can refer to it in more detail. I think, Mr. Chairman and gentlemen of the committee, that this amendment is important and will result, if adopted, in very much good to our future State. I have no particular objection to the matter which is sought to be stricken out. All that matter and substance is included within the amendment. But there are additions in the amendment which cover every class of societies and which, if adopted, would prevent the appropriation of any public funds by future legislation to such associations. In order to make myself more clear, the portion which is sought to be placed therein, "No public money or property shall be appropriated or applied to any religious worship, exercise, or institution, or for the support of any ecclesiastical association." It will be observed that the particular class named in the matter sought to be stricken out is ecclesiastical establishments. In fact, it all applies to a particular class of institutions, that is, a religious class. Mr. Eldredge's amendment seeks to go further and to prevent the appropriation of any public funds to secular societies or institutions. It would seem to me that this is right in principle. I see no reason why there should be a restriction upon the Legislature to appropriate public funds for religious institutions, and the Constitution be left

open so that such funds may be appropriated to secular institutions. Of course that would cover atheistic and infidelic institutions. If we should happen to have a Legislature in the future, who were of that particular class, there would be no restriction upon the members of the Legislature to appropriate to an atheistic class. Were we to prevent by putting a restriction upon any future Legislature, prohibiting them from appropriating our public funds—these funds drawn from the people by universal taxation, and giving it to a class of that character already named, I can see no harm in this, if we do it; in fact, everything seems to me to be embodied in it in the right direction. It covers church, religious institutions, religious or secular societies, or any institution or society or undertaking which is wholly or in part under sectarian or secular or ecclesiastical control. Now, gentlemen, let me explain to you a little further in respect to this matter. The function of a constitution is to put restrictions upon future legislation. If this were not true, it would be wholly unnecessary to make any Constitution at all. The Legislature would have the plenary power, and indeed, the Legislature of the State would have supreme power to legislate upon all matters certainly not inhibited in the Constitution of the United States. We say in the latter part of section 4 that the Legislature shall be restricted from appropriating any public funds to religious sects or societies. That is a matter to which we are all agreeing. Now, if that be true, can any gentlemen put forth any reason why there should not also be a restriction upon the Legislature from appropriating its funds to secular institutions—to those who make no pretense of religious sentiment? A secular society might organize, or anti-religious or anti-Christian society might organize and derive the benefits, unless there are some restrictions of this character, and there is nothing I might say

in the way to prevent the Legislature from appropriating or making appropriation of public funds for the purpose of supporting such societies. I admire the amendment. I think its spirit is right. I think it is right, and I think it ought to be supported and succeed and be carried by our votes.

Mr. VAN HORNE. I think that some of the gentlemen must either have misinterpreted the effect of those words or else I do. I do not know which it is, but it seems to me we should forbid the appropriation of money to any of the purposes for which money is actually appropriated. For instance, I think the State, if affairs are under secular control—I take in the way this reads in the proposition, that it will forbid the Legislature from ever granting a bounty. Whether that is to be the sense of the Convention or not, I think it should be understood. I think it should be understood thoroughly what we are voting upon. In voting upon such an amendment, if they feel and wish to include bounties and if that carries in the Constitution—I think it does. I think if they do not want to do it, they should not pass such an amendment as that.

Mr. THURMAN. I suggest this, that if any gentleman on this floor sees any danger in the proposed amendment, that can be obviated by amendment to be proposed by himself, he ought to move to amend—to put in a saving clause; but, gentlemen, if you don't want to do so, don't place yourselves here in the position of desiring to exclude the appropriation of funds to religious organizations and leave it open to be appropriated to anti-religious organizations and societies of secular nature, of a thousand and one kinds, which exist in the country. I think it is just as proper, however, and I want it to be understood, but I deem it as improper to appropriate money to an ecclesiastical organization, as to one which is not of an ecclesiastical organi-

zation. I think it is just as proper to appropriate money to an Odd Fellows' society, or to any other society to which one part of the people belong, as to religious societies. I believe in the amendment offered by the gentleman that no society or institution or organization, which is ecclesiastical, religious, or secular, has any right to any appropriation. I am in favor of the amendment. I don't see now in the word secular how the matter suggested by the gentleman of Salt Lake could honestly be construed in the language he puts, unless in what he proposes, he is in favor of making ecclesiastical organizations the only subject to which this legislation is directed. Go on with your amendment, gentlemen, so far as I am concerned. I wish it did include bounties and I would vote for it, but it seems to me that it is not included in the language as it now stands.

Mr. GOODWIN. I reckon there is no great division of sentiment on the principle that Mr. Eldredge is trying to express. It is only a doubt. It is only how the supreme court, for instance, would construe this paragraph as it is put in the bill of rights of Utah. If the resolution is changed, so it would include all benevolent societies making it specific, Odd Fellows, Masons and other societies of that kind, I would very cheerfully support it, and I would hate to vote for something here that, after a little while my friend from Weber, Mr. Evans, would be able to go to the Legislature and when the proposition was made to carry forward some great needed public improvements in which the people would be interested, and in which the people of the State needed help, have this gentleman say, "if you only had your eyes open when the Constitution was being made, you could have fixed it, but as it was you blindly voted for it, and now we have you. It is against the Constitution; if the people of this State should not have their own

faults on that subject to appropriate their money for a purpose of that kind. I am clear that the language is all right but as I understand the word secular, it means anything besides religious causes. I am free to say that it covers the whole majority of this house and I would like to have the word changed or some explanation put on it, or have it continued for a day or two until we could have time to think it over, or vote it down.

Mr. ELDREDGE. I would say there is no objection to having this proposition continued for a day or two and have it printed for the further consideration of the Convention. The section that is being considered did not exactly reach my views. While I am sorry to say I was at a loss to be present here yesterday, and hear the argument yesterday, without that I have to express my sentiment as I do relative to this question. Now, considering societies, whether they are under the head of secular or whether they are under the head of ecclesiastical, or whether it may be, all ought to have equal privileges and equal opportunities, and no restrictions should be placed upon one that should not be placed upon the other, and that is what I still have in view. I would favor that the amendment go over until to-morrow to give the gentlemen of this Convention further time to consider the construction of this amendment, and I now move you, Mr. Chairman, if it be in order, to leave the consideration of this until our next sitting.

The CHAIRMAN. It is not in order.

Mr. BUTTON. Is not it in order to make a motion to pass this section and take up the next one?

The CHAIRMAN. I should say not.

Mr. BUTTON. And not act upon it at all?

The CHAIRMAN. No, sir; and we shall have to consider the amendment offered by the gentleman from Summit.

Mr. ELDREDGE. Rather than have it go to a vote while the house seems to

be in doubt relative to the full meaning of the amendment, I will ask the privilege of withdrawing it for the time being.

The CHAIRMAN. If there is no objection—

Mr. EVANS (Weber). I second the motion of the gentleman from Summit, and I do object to it being withdrawn. I would like, however, for it to go over a day and it will give everybody an opportunity for considering it.

Mr. VARIAN. I will draw the gentleman's attention to the fact that there can be no objection to letting this matter go over; before the final submission of this article, when it is reported, an amendment can be offered on the third reading, in the Convention.

Mr. CHAIRMAN. If there is to objection the amendment will be withdrawn.

Mr. EVANS (Weber). I do object.

Mr. ANDERSON. I move we lay the amendment on the table.

The motion was agreed to.

Mr. FARR. I call for the ayes and noes on that.

The CHAIRMAN. You can not do that in the committee of the whole.

Mr. EVANS (Weber). The chair is right for once.

Mr. FARR. I would propose an amendment to that section. I wish to commence at the word "no" in the twelfth line and have it read in this form: "No public money or property shall be appropriated for or applied to any religious or secular society," leaving out the word "worship"—"or for the support of any ecclesiastical denominations;" so it shall read in this way, "no public money shall be applied to any religious or secular society for the support of any ecclesiastical society." I wish to amend it to read in that way which I think covers the main object of the previous motion.

The motion to amend was seconded.

Mr. VARIAN. Not out of any disrespect to my friend from Weber County

in order that the whole matter can be considered, my friend, Mr. Eldredge, has his motion to amend laying on the table. I move to lay this on the table.

The motion was agreed to.

Mr. EVANS (Weber). I rise to a point of order. That motion to lie on the table is not in order in the committee of the whole, and I make a further point of order that the effort to lay this amendment on the table lays the whole of section 4 upon the table. I read from page 45 of Roberts' rules of order.

Mr. VARIAN. I call the gentleman to order. There is nothing pending before the house now upon which can be based the point of order. He permitted the question to pass the judgment of the chair and it has been determined by a vote which has been executed.

The CHAIRMAN. I think the point of order is well taken.

Mr. EVANS (Weber). I appeal from the decision of the chair upon that question.

The CHAIRMAN. Gentlemen, you hear the appeal, the question is shall the decision of the chair be sustained?

Mr. EVANS (Weber). I desire to make a few remarks. I read from Roberts' rules of order, on page 45, "the effect of this motion is intended to place on the table—"

Mr. VARIAN. I again call the gentleman to order. The only matter which he is discussing now is the subject matter of my point of order, which was that the gentleman had no standing. I raised the point of order because there was nothing pending before the house. He is now proceeding to discuss the merits of his original point of order.

The CHAIRMAN. Mr. Varian's point of order is well taken.

Mr. EVANS (Weber). I did not appeal from that point of order.

The CHAIRMAN. You are out of order.

Mr. EVANS (Weber). Does the chair refuse to hear me?

The CHAIRMAN. Yes, sir. You are not discussing Mr. Varian's propositions.

Mr. EVANS (Weber). I wish to say again, I desire to read from page 45 of Roberts' rules of order. The effect of this motion is intended to place on the table all that adheres to the subject.

The CHAIRMAN. That is the very argument which Mr. Varian objects to and makes the point of order upon again.

Mr. EVANS (Weber). Does the chair rule me out of order?

The CHAIRMAN. The chair rules you out of order on that line. The question is, shall the decision of the chair be sustained on the point of order of Mr. Varian?

The question was then taken and the decision of the chair was sustained.

The CHAIRMAN. The question is now upon the point of order raised by Mr. Evans. Are you ready for the question upon that point?

Mr. VARIAN. That has been decided. You overruled his point of order.

The CHAIRMAN. All right.

Section 4 is still open for consideration.

Mr. BUYS. In the sixth line, I move to insert after the word "required," in the sixth line, as a qualification, "No religious test shall be required as a qualification for any office of public trust or for any vote, at any election." And I think that is necessary to complete the meaning of this clause. It is a qualification to hold office that we are speaking of. No religious test shall be required as a qualification for any person to hold office, and I think the other is a proper amendment to that section.

Mr. JOLLEY. How will that read then? In view of the amendment made yesterday striking out the words, "property qualification."

Mr. BUYS. The words were stricken

out, "or property qualification;" it read then, no religious test or property qualification shall be required for any office of public trust or for any vote at any election. Now, "property qualification," was stricken out yesterday and it will read with my amendment now, "no religious test shall be required as a qualification for any office of public trust."

Mr. EVANS (Weber). I rise to a point of order. This appears to be an amendment to section 4. I make the point of order that an amendment to section 4 was, by the decision of the chair, laid upon the table, which carries with it the section itself, and everything relating to it. I read now from page 45 of Roberts' rules of order in support of my point of order.

Mr. VARIAN. I again call the gentleman to order. In another way he is attempting to revive the executed judgment of this Convention. He cannot be permitted to do it. We never would conclude if that can be done. He raises the same point of order that was ruled out and is making it again.

The CHAIRMAN. To facilitate business, the chair decides it is not well taken.

Mr. EVANS (Weber). I appeal from the decision of the chair. I desire to be heard. I now read from page 45 of Roberts' rules of order.

Mr. VARIAN. The gentleman must be confined to the question.

Mr. EVANS (Weber). I am going to confine myself to the question.

Mr. VARIAN. The question, if the chair please is this—

Mr. EVANS (Weber). I move to a point of order; Mr. Varian is not in order.

The CHAIRMAN. Mr. Varian rises to a point of order. The gentleman from Weber will take his seat.

Mr. VARIAN. The gentleman is not speaking to the question before the house. It is simply upon this former ruling of the chair. It is simply upon

this appeal from the ruling of the chair, which is based upon this fact: That no point of order was made, first, until the judgment of the Convention had been executed. Second, he is making a point of order now after the whole matter raised upon the first point of order was decided, and he is going back to that. He is reciting and re-affirming the same proposition.

Now, it is utterly unimportant as to what the merits of his proposition might be. It might be important if he got it in in time. The question here is whether the chair was right in ruling that the point of order, however good it might be, should rule.

The CHAIRMAN. I decide the point of order well taken by Mr. Varian. You will confine yourself to the discussion that is before the house.

Mr. EVANS (Weber). May I arise to a point of personal privilege?

The CHAIRMAN. Yes, sir.

Mr. EVANS (Weber). It seems to me that I ought to be permitted at least to state my reasons for this appeal. If the house does not sustain the chair, of course my point is not well taken. But I never have yet upon the floor of this Convention been permitted to say one word to a conclusion upon the questions which I have raised. I have been trodden upon and oppressed by the majority, simply because they have a right and have the strength to do it. All I ask now is the right to—

The CHAIRMAN. The gentleman must confine himself to the question.

Mr. EVANS (Weber). May I proceed to do that?

The CHAIRMAN. If you proceed to do that, yes.

Mr. EVANS (Weber). The question which I desire to state is this: Mr. Varian made a motion to lay an amendment to section 4 upon the table, it was carried. Then an amendment was made by the gentleman from Wasatch County to section 4, and I then made the point of order that section 4 could not be

considered under the rules. To that question Mr. Varian rises to a point of order and the chair sustained him. I appeal from the decision of the chair and I now desire to state my appeal, so that the house may intelligently vote upon it, that is all I ask, and nothing else. May I be permitted?

The CHAIRMAN. Go ahead.

Mr. EVANS (Weber). I desire to state that we have a precedent for this matter, not only in the rules, but one which came from the gentleman from Salt Lake himself. At the time when the report of the committee on printing came before the Convention a portion of it was read and upon motion of Mr. Varian it was laid upon the table. He then declared that that laid the whole subject matter upon the table, and he was sustained by the Convention. Then the Convention had seen that a mistake was made—that the intention was not to lay it all upon the table; he moved a reconsideration of the vote by which it was laid upon the table, and the Convention again took it up. Now, this question was to the exact point. We have adopted Roberts' rules of order, which expressly state that that is the mode of procedure. Mr. Varian was right then. Now, in Roberts' rules of order it provides on page 45, the effect of a motion of that kind is generally to place on the table everything that adheres to the subject, so that if an amendment be adopted to lay on the table, the subject itself goes there with it. I was proceeding to try to read from page 45 of Roberts' rules of order—I don't like to say it again, for I fear I might be called to order. Now, Mr. Chairman, in all good will to the chairman and to the gentleman on the other side of the house, I submit if I am not right, upon this position. Mr. Varian was right when he made the same point and we all conceded he was right.

The CHAIRMAN. The motion stands like this: The gentleman from Wasatch offers an amendment to section 4. Mr.

Evans of Weber raises the point of order that section 4 lies upon the table, because an amendment which was offered was laid upon the table and carried section 4 with it. The chair ruled that the amendment did not carry section 4 on the table. The question comes now whether the decision of the chair shall be sustained.

Mr. THURMAN. I desire to say just one word in reply to Mr. Varian, on one point, which Mr. Buys did not touch. Mr. Varian made the point that this was an indirect way of trying to reconsider a point already ruled upon by the chair. Now, I only wish to call the attention of the Convention to this fact, that the new point may be raised every time there is a new proposition presented. Since the chair ruled upon the question referred to by the gentleman from Salt Lake, the gentleman from Wasatch proposed another amendment, so it is not an indirect way of getting at the question at all. It is simply raising it for the first time upon a question presented to this Convention for consideration. So far as that is concerned in other respects, it seems to me the gentleman from Weber is right in his position.

Mr. VARIAN. Perhaps I misunderstand the situation. I understood Mr. Evans raised his point of order after the Convention had tabled the amendment—after the decision had been made.

The CHAIRMAN. That is his first point of order.

Mr. VARIAN. And I had in mind he was renewing that same point of order in another way and was not considering the question at all—that is the effect of laying the amendment on the table. I called Mr. Evans to order upon that question. I do not understand that I presented any other question, any other point of order. It was simply that he had raised the point of order when it was too late.

The CHAIRMAN. The reason the chair has made this ruling is, if Roberts'

rules of order apply to the committee of the whole no motion to lay on the table would be proper at all. Now, the committee have decided for that reason that only the proposition of Mr. Buys of Wasatch will go the table, and not the whole section.

Mr. HART. I did not understand we passed upon the question that a motion to lay on the table was in order in a committee of the whole. We simply permitted it. I understand that question had not been raised. Roberts' rules of order, so far as they are applicable to the matter, are certainly in force in a committee of the whole the same as in the Convention. Of course there are some provisions which are not applicable to the committee of the whole. While I am on my feet, I desire to understand the question before the house. I understood the question to be that we voted on and the one upon which I voted to sustain the chair was that the point of order was not properly raised. As I understand it, this is the first time this question has been before the house. As to whether an amendment, if laid on the table, takes with it the main proposition. On that proposition I shall have to vote in the negative. My reason for voting in the affirmative before was, I thought the point of order made by Mr. Varian was that the point of order raised before was not raised at the proper time.

Mr. VARIAN. Does the chair rule upon the motion that the amendment going to the table did not carry the section?

The CHAIRMAN. That was the ruling of the chair, and I stated when I made it, it was to facilitate business. I would like to cut off some of these points of order business. Shall the decision of the chair be sustained?

The question was then taken and the decision of the chair was overruled.

The CHAIRMAN. Section 4 then lies upon the table.

Mr. THORESON. I move that we take section 4 from the table.

No second.

The secretary then read section 5, as follows:

Section 5. The privilege of the writ of habeas corpus shall not be suspended, unless, when in case of rebellion or invasion, the public safety imperatively demands it.

Mr. EVANS (Utah). I move you Mr. Chairman, that we take up section 4 from the table.

The motion was seconded.

Mr. VARIAN. That will have to be done by reconsidering the vote. I hope that will not prevail. It is taking from the table these amendments, and we would be in the situation that we were a few minutes ago. My friend, Mr. Eldredge, desires to have this amendment lie over a sufficient length of time, in order to give the members an opportunity of considering it, and it will doubtless be printed and published to-morrow and it can be taken from the table then and also these amendments, to be considered.

Mr. EVANS (Utah). May I be permitted to give the reasons for the motion? When it is desired to take up the question, a motion is made either to take the question from the table, or to now consider such and such a matter. I simply wanted to put myself right.

Mr. CORAY. I hope we will vote this question down, so we may proceed to attend to the work before this committee. It seems to me there can be no possible objection raised to having the question brought before the house to-morrow.

Mr. EVANS (Utah). By permission, and with that view, I am perfectly willing to withdraw the motion.

The CHAIRMAN. If there is no objection, the motion to take section 4 from the table will be withdrawn.

The secretary again read section 5.

Mr. BUYS. To section 5, I move to amend it by striking out the words

"imperatively demands it," on the third and fourth lines, and inserting in lieu thereof, "may require its suspension."

Mr. EVANS (Weber). I move an amendment to that amendment, that the word, "imperative" be stricken out: It is an unusual word there. It is not found in the other constitutions.

Mr. BUYS. I accept that amendment.

The question was then taken on the amendment of Mr. Evans and the same was agreed to.

Mr. VARIAN. I have not examined the subject of the several constitutions of the states in reference to this particular thing. I would like to ask the chairman of the committee who reported this, whether the word "war" was intentionally omitted from the third line of this section? Its provision is in case of rebellion or invasion. My impression was it was usual to include the word war.

Mr. WELLS. I have not seen it in any of the constitutions I have examined, and I have before me Montana, Idaho, Washington and other states, and it is just the same as this. In case of rebellion or invasion. I have never seen the word war in that connection.

Mr. MALONEY. I wish to amend section 5 by adding "in such manner as shall be prescribed by law."

Mr. VARIAN. I do not think that amendment ought to prevail. That is, unless there is some reason for it that does not occur to us now. The writ of habeas corpus is an extraordinary matter. It only ceases in times of danger and public peril. It is only permissible at all when the public safety requires it. It is an extraordinary invasion or, perhaps, I might say suspension of the rights of the citizens which are made to yield, because of the exigencies of the occasion, for the good of the whole people. Now, this amendment, as I understand it, will contemplate the Legislature in advance seeking out and prescribing the conditions and the limitations surrounding and restricting the

exercise of this writ. Its efficacy would be certainly impaired if not done away with. Why cannot it be safely left to such occasions and to be exercised in accordance with the general precedent and history of its exercise in this country? As I said before, unless there is some reason, I cannot see why this should prevail.

Mr. MALONEY. The section is taken literally from the Idaho statute. The privilege of the writ of habeas corpus shall not be suspended unless in case of rebellion, or, unless the public safety requires it, and then only in such manner as shall be prescribed by law. By what Mr. Varian says, the Legislature ought to prescribe by law how the writ of habeas corpus shall be suspended. That is all I ask.

Mr. EICHNOR. I will state to the gentleman from Weber County, that I have examined the provisions in forty-four constitutions and the majority of the states do not require the Legislature to make the provision. As the section has been amended, it is in strict accordance with the provisions in Washington, Wyoming, California, and many other states. I think the section ought to stand as amended. I think the amendment offered by the gentleman from Weber County should not prevail under any circumstances.

Mr. VARIAN. I question the accuracy of the gentleman from Weber County in the statement that it is in nearly all the constitutions. It certainly is not in the Constitution of the United States. It is not in the constitution of the State of New York.

I know it is a new provision—it strikes some of us as being new, and it strikes at this principle that in time of war or public danger, all the laws are silent. The necessity of the people overrides everything. Now, the gentlemen say that the Legislature ought to prescribe the means of regulating this matter, but supposing it does not? That is the situation as presented to me. Sup-

posing it does not do so? Then we are confronted with a paragraph in the Constitution against every other department in the government, and the hands of the present authorities to suspend it might, by this amendment, be tied. That is my objection to it.

Mr. THURMAN. I favor the amendment. I think it ought to be made the duty of the Legislature to determine by law in what manner and by whom the suspension of this extraordinary privilege shall be made. Who is to determine it now? Take it without law? We have the declaration here that it shall not be suspended except in case of rebellion or invasion. When the public safety requires it. Who determines that condition? A time and under circumstances in which the citizen may be deprived of his liberty and there is no redress. It is an extraordinary thing to deprive an American citizen of his rights to demand by what authority he is detained in prison, and I say that it is a right that ought to be regulated by law. Let the Legislature in time of peace determine how this deprivation of this privilege may take place, and how it may be done. It is not a convincing argument to my mind the fact that some other constitutions may not have this provision. We are legislating or framing fundamental law for the people of Utah. If every time we have the question of the rightfulness of your incarceration determined, it is a matter we can regulate by law and then the citizen will know and will understand under what circumstances this extraordinary writ or power to deprive him of his liberty without that particular redress can exist. I am in favor of it.

Mr. VAN HORNE. It seems to me that the amendment should not prevail. We provide only two instances in our Constitution under which the writ of habeas corpus may be suspended. Those two are rebellion and invasion. It is well known, it could not escape

the notice of anybody, or any person in the city or State when there was rebellion, or when the State was being invaded by foreign enemies. The object of providing that in those two cases the writ of habeas corpus may suspend, is that those may be imprisoned who are secretly giving aid and comfort to the enemy. The reason for it is the safety of the State. The safety of the people also. If we put in a provision that the Legislature shall provide in what way and in what manner the writ of habeas corpus may be suspended, the action of that Legislature will limit the suspension of the writ in all other cases than those specified by the Legislature. It destroys the whole object of the suspension of the writ of habeas corpus by specifying special cases and leaving nothing open to the authorities of the State when a case arises that is not within the special laws of the Legislature. The object is the perpetuation of the State, the maintenance of its local government. We trust something to the people and to the men whom the people put in charge of the State. It is the genius of our country that when the people have chosen their officers they lay them under the duty of protecting the public welfare and entrust in their hands in the two special instances of invasion and rebellion the power to suspend the writ. That is right in every case, a right of freemen; it is done for the welfare and safety of the State and that welfare and safety is endangered when you leave it to the Legislature to fix certain cases only in which the writ of habeas corpus may be suspended, and leave open possibilities of the enemies of the State who are still citizens of the State in rebellion to the same; that it is not one of the cases that the Legislature has provided for, and consequently you cannot suspend it in this case.

Mr. THURMAN. May I ask you a question?

Mr. VAN HORNE. Yes, sir.

Mr. THURMAN. Who did you understand has the right to suspend the use of this writ?

Mr. VAN HORNE. I understand the executive department suspends it. It usually precedes the declaration of martial law.

Mr. THURMAN. One further suggestion to explain my question. If it is still provided here that the Legislature may not suspend it except in certain cases, I am willing to vote for it, without the amendment of the gentleman, but if the executive may do it, or if the judiciary may refuse to act when it appears to them there is a case of rebellion or invasion, I am opposed to such a power being exercised.

Mr. VAN HORNE. I think I said all that I care to say. I think still the amendment is one that is against the genius of our institutions. I think the executive of the State, when, if it comes necessary in case of invasion or rebellion, has the power entrusted in his hands to suspend it and it is the genius of our institutions to entrust in his hands the temporary suspension of that right.

Mr. EVANS (Weber). I am opposed to the amendment and I desire to call attention to the provision in that respect in the Constitution of the United States, "The privilege of the writ of habeas corpus shall not be suspended unless when in cases of rebellion or invasion public safety may require it."

This section, which the committee has recommended, is in the exact language of the Constitution of the United States with the exception of "demands it," instead of "requires it." The word imperatively having been stricken out, the section now stands without the amendment just as it ought to stand and just as many of the states of the United States have adopted it. I cannot share in the opinion of my friend from Utah County upon this question and use of the writ of habeas corpus to the extent

to which he carries it. It is quite true that this principle is one of the jewels taken from the casket of liberty, wrung from tyrannical old John at Runnymede, but when that principle was secured by barons upon that battlefield, it was not only for the safety of the individual, but it was also applied and became necessary for the safety of the state, as well as the individual. When the individual rebels against the state, or in case of invasion, he ought not, under those circumstances, to have the same right that he has when he is loyal to the state, and in those exciting moments when conspiracies might be formed, at times when rebellion may be rife, this high prerogative secured and handed down to us through posterities and ages should only be given in times when there is peace and quiet and not in times when there is invasion, rebellion, or conspiracies, but only at such times as when the public safety may require a suspension of the writ should it be suspended. Now, gentlemen of the committee, suppose we were to have rebellion in the State; suppose it should be determined that some people were conspiring against the interest of the State? Suppose war were rife? Suppose it were utterly impossible for the authorities of the State to determine what would be the result and support, the public safety required that this high prerogative should not be exercised upon the part of the citizen? Then, under such circumstances it ought to be taken away. But not in time of peace when those conditions of things do not exist. Then it is one of the highest prerogatives and one of the highest rights which the individual citizen may have.

In times of war, in times of public danger, when the government itself is struggling for its supremacy, it becomes necessary to take away this high prerogative from the individual and it ought to have that right; it ought to have that authority. It has it by the Constitution of the United States, one

of the grandest ever drawn or adopted. It has it by a majority, in fact nearly all of the constitutions of the Union. It is not necessary that the Legislature should prescribe the method by which this writ should be suspended. They may do it, I believe, under this section, that the Legislature in times of peace might prescribe a method by which this right should be suspended and in this time of danger it might be considered inadequate upon the part of the Legislature. New amendments or provisions might be necessary to be obtained and the Legislature could not be convened for that purpose. This is not a mere experiment. It has been tried by so many states and by the great government of which we are a part; to make the amendment would be an innovation upon other constitutions or a majority of them all, at least which have been adopted by the states of the Union. I therefore do not support the amendment.

Mr. GOODWIN. Mr. Chairman, this is supposed to be a perfectly free country, but this country has a nucleus at least of an army and all the rules that govern that army make them simply an imperial machine as strong as any in the world could make it. When, in times of great peril, it is necessary for the chief officers of the state to use their best judgment, they being under oath, the men entrusted by the people of the state to protect and defend that state, when war comes or invasion, there are then times when these men in that position cannot afford to explain why they act. It would excite unnecessary fear among the people or it would give unnecessary notice. It is for that reason that all the laws of this country through all the constitutions of the states, have reached that point where they in fact say there may be times when those in charge of the state must for the safety of the state use absolutely their own judgment. They must use their judgment, and it is for that purpose that

this provision is made and to add to it simply neutralizes the intention of the preamble. Some of us are old enough to remember that when for four years through all of the northern states, and for all I know through the southern states, there was a great class of newspapers who declared the governors of the states usurpers, and the courts as executing laws in a way never intended by the Constitution. Now, the position of my friend from Ogden would fix this State in the same way. The Legislature would put in some clause, and then, if it was necessary to suspend this writ, it should be done arbitrarily as it always is. There would be a low class of men sympathizers with the men in rebellion who would be declaring that the governor was a usurper, and that we might just as well be given over absolutely into the hands of some pirate.

The object of this is to give those in authority the use of their best judgment, and if the emergency is grave enough, not to be forced to give any reason for their acts. That is an imperial government or military government for the time being. The article is all right as it is. There is no occasion for the coming statesmen of this Territory to fix on the statute what will be in the way of governors and others who may have charge of this State by and by in case there is an invasion or rebellion here. We elect men to office; they take the oath; if we do not elect the best men it is our mistake. When they are in that position, their best judgment sometimes has to be used. That is in time of great danger. The gentlemen who formed the Constitution of the United States had been through very trying times for a good many years. They fixed it and considered it sufficient. Without being at all sarcastic, I do not believe we, as a body, can, without at least a day's consideration, improve on that original instrument. I oppose the amendment.

Mr. MALONEY. If Mr. Van Horne's

idea is correct, then I hold no imperial or any power of that kind should be placed in the hands of the governor of Utah or any other state. If the right is to be left to the Legislature then I withdraw the amendment, but I do not believe in centralizing power in the hands of any one man. Now, I regret to hear my friend from Weber talk so. I supposed he was lawyer enough to know that the writ of habeas corpus provided for in the Federal Constitution was not in any way applicable to the state authorities. In reply to my friend from Salt Lake, Mr. Varian, in regard to the provisions in the various constitutions of the various states, I shall simply call attention to a few of them that have it in them. Connecticut for instance; there the legislature has the power, and I would not object to leaving it that way. Georgia has it; Michigan has it also; Massachusetts has it also; Missouri has it also; Nebraska has it also; North Carolina has the same provision; Rhode Island has it. I might go on and cite some others. I submit, gentlemen, that this amendment is proper and right, and I submit that it ought to carry.

Mr. ROBERTS. I think that we are all agreed upon the proposition that the suspension of the writ of habeas corpus is perhaps the highest power conferred upon the governor, and is more likely to interfere with individual liberty, and that it is susceptible of very grave abuses. Those considerations convey to my mind the conviction that above all power this is one which ought to be most carefully guarded by the provisions of the law. If I have got the spirit or genius of the American government, its first consideration is to preserve the liberty of the individual and guard against the abuse of power, and I can see no objection, after listening to all the gentlemen have said upon this proposition, to conferring or guarding the exercise of this very high power of suspending the writ of habeas cor-

pus by the provisions of the law, and I certainly do not believe in granting to the officers of the government arbitrary powers unless you shall very carefully guard against the abuse of those powers. And I think, above all provisions in these constitutions, that the exercise of this power should be guarded by regulations of law and not leave it to moments of peril and excitement to determine under what circumstances this writ shall be suspended, but, in cool judgment, and when men may be governed by reason and not by passion, fix the limitations of their power, and for that reason, I favor the amendment that has been offered by the gentleman from Weber.

The question was then taken on the amendment and the same was rejected.

Mr. WHITNEY. I have a slight amendment to offer to the same section in line 2 of section 5; the word "when" seems to be unnecessary. I move it be stricken out as surplusage, so it shall read, "shall not be suspended unless in case of rebellion or invasion or the public safety demands it."

The question was taken on the amendment of Mr. Whitney and same was agreed to.

Mr. EVANS (Weber). I now move to strike out the words, "demands it," and insert in lieu thereof "requires it." I just want to say that is the exact language of the Constitution of the United States and this might be considered in a different way. The words, "requires it" have a well understood meaning by the construction of the courts. Now, it may be considered differently if we use the words "demands it," because it might be that there should be some demand made upon the authorities whenever the public safety requires it. For that reason, I think it would be better to use the usual language.

The question was taken upon the amendment of Mr. Evans, and same was agreed to.

Mr. BUTTON. I move that this section pass.

The CHAIRMAN. That is not necessary.

The secretary then read section 6, which was adopted without amendment.

The secretary read section 7 as follows;

Section 7. No person shall be deprived of life, liberty, or property, or be outlawed or exiled without due process of law.

Mr. VAN HORNE. I move you that the section be amended by striking out the words, "or be outlawed or exiled."

Seconded.

Mr. WELLS. I will state that that clause was copied from one of the constitutions, I don't remember which, but I think it is covered in the liberty clause, and I have no objection to it being stricken out.

The question was taken on the amendment to strike out and was agreed to.

The secretary then read section 8, which was agreed to without amendment.

The secretary read section 9 as follows:

Section 9. Excessive bail shall not be required; excessive fines shall not be imposed; nor shall cruel and unusual punishment be inflicted. Persons arrested or imprisoned shall not be treated with unnecessary rigor.

Mr. VARIAN. I don't know what the purpose of that last phrase or clause is. It seems to me it is a matter of legislation. The section as it stands prior to that, "excessive bail shall not be required; excessive fines shall not be imposed, nor shall cruel or unusual punishment be inflicted," seems to cover the whole ground. I don't want to raise any unnecessary question, and I suggest to the chairman of the committee whether there is any particular reason for putting that in there.

Mr. WELLS. The object to protect persons in jail if they shall be treated inhumanely while they are in prison.

Mr. THURMAN. I would like to ask

the chairman of that committee if this is copied from any other constitution?

Mr. WELLS. I will answer the gentleman that I don't think it is, in that language, but there are plenty of provisions in regard to the humane treatment of prisoners.

Mr. THURMAN. I don't think we ought to adopt this unless it is copied from some other constitution; for that reason I shall favor the motion to strike out.

The motion to strike out was agreed to.

The secretary then read section 10 as follows:

Sec. 10. The right of trial by jury shall remain inviolate, but the Legislature may provide for a jury of any number less than twelve, in courts not of record, and for a verdict by nine or more jurors on civil cases in any court of record and for waiving the jury in civil cases where the consent of the parties interested is given thereto in open court.

Mr. EVANS (Weber). I have an amendment which I desire to offer to section 10. I desire to explain to the committee, Mr. Chairman, what the meaning of the section now is and what it would mean if the amendment were to prevail. As the section now reads, in all criminal cases there could be no less than twelve men forming a jury, with a unanimous verdict, and the Legislature might provide for a number less than twelve not of record, that is it would empower the Legislature in justice's courts or other inferior courts not of record, to fix the number of a jury at less than twelve; in other words, in all courts of record or in the district courts the Legislature should be required to make a law that would give a man upon trial twelve jurors, but in justice's court, it might provide a law which would give a less number than twelve for the trial of such cases; and also it further provides that there must be a jury trial of twelve men in civil cases and that a majority of nine

might give a verdict. The balance of the section simply provides for waiving a jury providing the parties give their consent. Now, in the course of my remarks I will say the judiciary are considering a question of a less number than twelve jurors, both in civil and criminal cases, and we are maintaining the right of trial by jury for any person charged with crime, and that the same shall remain inviolate, but in civil cases a less number might be employed by an act of the Legislature. I appreciate that upon entering into the discussion of this question that it is an invasion upon the time-honored institutions, or the institution known as the jury system. From time immemorial the jury system has always consisted of twelve men, both in civil and in criminal cases. Many of the states in civil cases have made an advance in this respect. They say that in civil cases they still retain twelve men, but permit a less number than twelve to render a verdict, but in all the states, so far as I am acquainted, the number twelve is retained by every one of them, except in justice's courts. Now, gentlemen of the committee, we have considered this question, some of us, and I do not know how it will meet with the views of the committee, but, in the first place, I am one of those who believe, at least in civil cases, that the Legislature might provide a less number of jurors than twelve. We have clung to the old idea of twelve men sitting in judgment upon every little controversy which may arise in the district court. Our jury system in this Territory costs us somewhere in the neighborhood of about forty-five thousand dollars per annum. I think that expense can be very materially lessened, and at the same time, that the efficiency of the jury system shall not be impaired. Why is it, I may ask you, gentlemen, we retained in the trial of our civil cases twelve men in courts of record? Can any gentleman give you any reason for

it? Doubtless there will be many reasons given, but let me ask you this one question, if you or I, or any of our neighbors or friends were to take it upon themselves to refer their matters of contentions to some board of arbitration, how many men are usually selected? Scarcely ever more than three, many times one, but when it comes to the question of juries sitting in court we cling to the old idea that we ought to have twelve. The public pays the expense anyway, and we all like to have twelve men sit in judgment upon our matters of civil differences. The idea of the committee, I think, will be that in civil cases a jury of nine will be sufficient, any six of whom may render a verdict. If this amendment, which I have proposed, be adopted, then such an article would be in order in the judiciary article; otherwise it would have no place in it. If we succeed in reducing the number of the jurors in civil cases, we thereby save one-quarter of the expense which we have heretofore had, and wouldn't it be just as well to do that, if the efficiency of the service would not be impaired? In other words, gentlemen, can any sufficient reason be advanced why nine men cannot sit in judgment upon our civil differences and determine as correctly our rights as twelve men can do it? I believe that you will all agree that the majority of the jury may render a verdict, because, in my opinion, it is nothing more nor less than absolute barbarism to require nine or twelve men to arrive at a unanimity of opinion upon any particular question. Even when they are required to do it, in our present system, a time-honored system we have had for so many years, we know that a few strong-minded, intelligent men upon a jury control the balance of them, and the verdict after all is but the verdict of a few jurors. I think that has been the experience of every man. Another idea I have with respect to this jury system, requiring a

majority verdict in courts of record, which I think will be agreed to, and that is that the opportunity for corruption in our judicial system is largely removed. In a unanimity verdict, where all jurors are required to find the same, some unscrupulous client or attorney or some one interested in the cause might secure quietly the attention of one of the jurors; if so, the trial might be continued for weeks. Its importance might be such that such time would be required and that in the end, this individual, whose services have been secured, makes it so that the entire expense of a re-trial is necessary and incurred. On the question of the trial of a person accused of crime, I see no sufficient reason so far as I am individually concerned, why there should not always be a less number than twelve. I am in favor of that only. I believe with that kind of a jury there ought to be a unanimous verdict, because the liberty of the individual is so sacred and ought to have so many safeguards placed around it; then, when there is required to be a unanimous verdict, the jury will stop and think and inquire into every particular and circumstance surrounding this. But I see no reason why in the trial of ordinary criminal cases, there might not be a jury of nine, as well as in civil cases, with a unanimous verdict, except possibly in the case where the punishment might be capital. A case so grave as that, some provision might be made why the time-honored system of the jury might be unchanged. I introduce this amendment, so it will raise these questions, and I doubt not but that it will be discussed with calm deliberation, but for the best interest of the new State, and also from a point of economy, if the service can be retained the same. I hope it will be carried.

Mr. VARIAN. I wish to offer an amendment to that amendment by striking out, commencing in line 2 of the substitute, the words, "a jury of any

number less than twelve," and for a majority of verdict in civil cases and to insert "a verdict by nine or more in civil cases in any court of record." I move the adoption of that amendment, if some gentleman will second it.

Seconded.

Mr. THURMAN. Will the gentleman from Salt Lake have it read as it will read?

Mr. VARIAN. I will. If it shall be carried as amended it will read in this wise. "The right of trial by jury shall remain inviolate, but the Legislature may provide for a verdict of nine or more in civil cases in any court of record." Now, I call the attention of the committee to the fact that there are several propositions in the section as reported by the committee on preamble, which are unnecessary. First, the provision that the Legislature may provide for a jury of any number less than twelve in courts not of record. There is no need of that provision being in the Constitution. It is a matter of settled law under all the constitutions that they can provide for a jury of six, or two, or ten, in courts not of record, under constitutional provisions similar to those provided. The right of appeal exists and the trial on appeal can be had. Neither is it necessary to provide for the waiving of jury in civil cases. That is a matter that has been determined and become the settled law of the land. The Constitution of the United States—I was going to say—from the time the judiciary act of 1792 went into force, it goes as without saying in all federal courts where the constitutional provision is ever strict requiring a jury of twelve, and a unanimous verdict, in both civil and criminal cases, a stipulation by the parties in open court always does away with the constitutional requirements; that is, you say upon the theory that it may be waived, as being for their benefit, of course that is not necessary to declare in this Constitution, which is designed to be only a

limitation upon the power of the Legislature. What is the purpose or use of interpolating in every section after section the matter that will exist or be recognized, whether it is there or not.

But, on the motion principally involved in this amendment I have a decided opinion. I do not believe that the jury system is a work of barbarism in any sense. I believe it has been a part of the bulwark of human liberty from the days in which our English forefathers battled for human rights down to the present time.

It is the only branch of the judicial system which is in touch with the people. It is the only voice that the people have in the administration of justice; it is the only security that the common people have. It is the jury drawn from the body of the people, who, in times past, have stood out against the aggressiveness of courts and executive, in the defense of liberty, and for the protection of human rights. In that view, I would not vote to reduce the jury by one man in criminal cases; never. In civil cases I shall never vote to reduce the number of the panel by one man.

I am willing to concede in my own mind, in accordance with the experience and history of modern times, that it is in aid of justice that in civil cases nine of the jurors may be permitted to find a verdict. They still have the benefit of the argument, and the contention and division of those who do not agree with them. The jury, as a jury, is still there as a whole jury, representing the people in the jury box. I fear, Mr. Chairman, that this tendency in the last few years towards the abolishment of the entire jury system comes from certain influences; from certain quarters, which are in the nature of things antagonistic to the rights of the people.

The tendency in modern times is in all of the great litigation involving vast corporate interests; involving vast capital; and sometimes that money carries them before the tribunal of the judge—

a single judge sitting as a tribunal. I have no objection to that, if they care to do it by their own consent—the consent of both parties where their interests are conflicting, and they are fighting, and the contest is between them. If they choose to do that, and waive the constitutional privilege, it is their right, but I would not put a word either in the Constitution or upon the statute book that in any degree would impair the efficiency of the jury system, against the will of a single citizen of the commonwealth when he is brought into court there, either as a plaintiff or as a defendant, that he be given the right which his father had and their fathers before him, to demand under the Constitution the right that he has that his claim should be decided by twelve men coming from his own people, in touch with humanity, and representing its thought, and that he should be given all the protection that he ought to have. It is in that view that I present this amendment. I want the trial by jury to remain inviolate. You may do away with your grand jurors if you please. You may reduce them in numbers. You may give the prosecution of criminal cases to magistrates, or to district attorneys, but when you come to a trial jury, that last safeguard, that last barrier, that has always stood and always will, I believe, between the people and oppression, whether of executive power or corporate wealth; I say, when we come to that, we should act slowly, and wait, I think, long before we invade in the slightest degree or particular. We are consuming so much time that we can do no more than to allude in passing these various questions, making suggestions. There are a good many of the people here who have a right to talk. I could not pursue this argument as I would like to do. I can only say that this matter should not be hastily passed upon, but I hope that it will be duly considered by this Convention,

and that this amendment may find favor with the members of this body.

Mr. GOODWIN. I would like to offer a substitute for both amendments, to strike out all after the word "provide" in line second, and substitute the following: "In all civil cases for a jury of nine or less, two-thirds of whom may find a verdict," I wish to say to the house a few words. It is a question that I have thought over a good deal. I never saw a gentleman when he wanted to plead his case go and pick out twelve men. I do not believe they would have ever have thought of thinking of it if it had not been established away back. I do not think you, Mr. Chairman, or any other gentleman here, would care to have more than five men decide a case for you; but the main object is to save expense to the State. If the gentlemen read the report of District Attorney Judd, published in the papers two or three days ago, they will get an idea how burdensome the jury system has been on the Territory, and how burdensome it will be in the new State. We have had that matter under consideration. We have thought in all civil cases, if the jury was honest, that nine men would be just as good as twelve. If they were dishonest there is no occasion to compel either the plaintiff or defendant to purchase over nine of them. I have great reverence for the system. It was founded at a time when the people had very few rights and when those in power were very arbitrary. It was founded at a time when there were not many free schools in the country, and it is venerable with age and deserves the same respect that a broken-down old wall covered with ivy demands. At the same time, what we want in the framing of the Constitution of this new State, is to do exact justice by the people, if we can, and do it at the least possible expense.

Taking that view, the committee believe that in the most important civil

cases, nine jurors would give a cause just as deliberate and careful attention as twelve, and it would be better not to bind the jury to all agree to what the majority thought, but to give them some free exercise of their minds and their judgment all around, and to let the majority find a verdict, and that is more in accord with the genius of our country and our institutions, because majorities rule; they rule in the election of officers; they rule all the world over. There is no reason on earth why the same principle should not apply in the jury system. The chief object, however, over all is, without reducing in the slightest the protection upon the citizen, it will save the expense of a great host of jurors to the State.

Mr. ROBERTS. This is a question, it seems to me, of very great importance and it is one upon which I have some very decided views. But we are now in position that I don't think we can intelligently discuss the amendment that we have here before us. We have here, first, the section—section 10, and it appears in print. There are three amendments proposed to this section and I move that the further consideration of this section be postponed until the next meeting of this committee, and that in the meantime the propositions that have been presented for amendment be printed and furnished to the members so that we may discuss it intelligently and be able to arrive at a proper conclusion.

Seconded.

Mr. IVINS. I would like to ask the gentleman from Salt Lake, if he will include in his motion any other amendment that might be proposed?

Mr. ROBERTS. That we postpone it? I am willing to withdraw this if any gentleman has a further amendment to propose. Of course, I realize it would be out of order, but in the form

I suggest I think the committee might receive it.

Mr. VARIAN. I offer an amendment to his substitute.

The CHAIRMAN. Mr. Goodwin offers an amendment to the original article as printed.

Mr. VAN HORNE. I would like to ask a question for information, from Mr. Varian. I understood this amendment included to strike out waiving a jury by consent of parties?

Mr. VARIAN. I simply called attention to that because if left my amendment, if adopted with the other portion of Mr. Evans' substitute, would leave out this provision, found in the original section as reported by the committee.

Mr. THURMAN. I would like to ask the gentleman a question for information, whether or not the effect of the amendment that he proposes is not merely to require a jury of twelve in all cases, but a unanimous verdict in criminal cases and a verdict of nine or more in civil cases?

Mr. VARIAN. Yes, sir; I so understand it. If the section stopped in the first line that would be considered to mean a jury of twelve and require a unanimous verdict. It is not necessary to provide for a unanimous verdict in criminal cases. That would be so only when expressly provided otherwise.

The question was then taken on the motion of Mr. Roberts to postpone, and the same was agreed to.

The committee of the whole then rose and reported as follows:

Mr. President, your committee of the whole have had under consideration the preamble and declaration of rights, and beg to report progress, and recommend that the pending amendments to sections 4 and 10 be printed.

The report was adopted.

The Convention then, at 5 o'clock p. m., adjourned.

NINETEENTH DAY.

FRIDAY, March 22, 1895.

The Convention was called to order at 2 o'clock p. m. by President Smith.

The secretary called the roll and the following named members were found in attendance:

Adams	Larson, C. P.
Allen	Lemmon
Anderson	Lewis
Barnes	Low, William
Boyer	Low, Peter
Bowdle	Low, Cache
Brandley	Lund
Buys	Maeser
Button	Maloney
Call	Maughan
Cannon	McFarland
Chidester	Morris
Christianson	Moritz
Clark	Murdock, Beaver
Corfman	Murdock, Wasatch
Creer	Murdock, Summit
Crane	Nebeker
Cunningham	Page
Cushing	Partridge
Eichnor	Peters
Emery	Peterson, Grand
Evans, Utah	Peterson, Sanpete
Eldredge	Preston
Engberg	Raleigh
Francis	Ricks
Gibbs	Roberts
Goodwin	Robertson
Green	Robinson, Kane
Hart	Robison, Wayne
Halliday	Ryan
Hammond	Shurtliff
Haynes	Snow
Heybourne	Spencer
Howard	Squires
Hughes	Stover
Hyde	Strevell
Ivins	Symons
James	Thompson
Jolley	Thoreson
Keith	Thorne
Kearns	Thurman
Kerr	Van Horne

Kiesel

Varian

Kimball, Salt Lake Warrum

Lambert

Williams

Larson, L.

Mr. President.

Mr. MURDOCK (Beaver). Mr. President, Mr. Coray wished to be excused; he was obliged to be away.

Prayer was offered by Rev. Joseph McClain, of the Presbyterian Church.

The journal of the eighteenth day's session was read and approved.

Mr. Call then presented a petition, signed by 1875 citizens of Davis County, praying for the adoption of the first article of the committee report on elections and right of suffrage.

Mr. Bowdle presented a petition, signed by 250 citizens of Salt Lake County, for the submission to the legal voters at the same election at which the proposed Constitution is submitted, an article on prohibition.

Referred to committee on manufactures and commerce.

Mr. BUYS. Mr. President, under the ruling of the chair the other day, this is not the proper place to introduce that resolution. It is a resolution or proposition for insertion in the Constitution. It is exactly the same thing that was presented from Wasatch County and it was ruled that day that it should come in under the head of propositions for insertion in the Constitution.

Mr. BOWDLE. Mr. President, that is not a proposed article for the Constitution; it is simply a memorial, as I understand it. I have not read it over.

Mr. BUYS. Mr. President, it is the same article that was presented the other day from the citizens of Wasatch County, and under the rule that time it was laid over to come up under the head of propositions and the next day the presentation of it under this order of business, was stricken from the minutes.

The PRESIDENT. I think it will have to be ruled out to come in under propositions. It is a proposition for legislation.

Mr. IVINS. Mr. President, I do not wish to detain this Convention with unnecessary questions, but I do maintain that this petition which has just been introduced, signed by a large number of citizens of this city or county, or a petition coming in that form from the citizens of any other county, is a petition. They petition and ask that we take such action as will result in the insertion of an article similar to this in the Constitution. I claimed the other day, and I claim now, that this is a petition, and this is the proper time to dispose of it. A proposition for insertion in the Constitution comes from some member of this Convention, and it comes in the form of a petition which the citizens of this Territory have a right to make. They may petition for any action and this properly comes under the order of business we are now considering.

The PRESIDENT. There is nothing before the house. The chair has ruled on that.

Reports of standing committees.

Mr. CHIDESTER. Mr. President, the committee on elections and rights of suffrage have a report. If it is proper at this stage of the proceedings, I would ask to have that made a special order for Tuesday next.

Mr. KIESEL. Mr. President, I move that this report be not received just now, until the minority report is ready. This is the report of elections and right of suffrage, is it not?

Mr. CHIDESTER. Yes, sir.

Mr. KIESEL. Under the rule he will have to wait until the minority report is ready.

Mr. CHIDESTER. I desire to state that a minority report will be presented and in my opinion that will give them ample time to prepare their minority report, and I would like to have it made a special order for Tuesday next at 2 o'clock p. m.

Mr. KIESEL. Mr. President, the gentleman is out of order. I made a

point of order. My point of order is this: that if we give notice that there will be a minority report, the majority report cannot be acted upon. I believe that was the rule.

Mr. ROBERTS. Have you given such notice to the committee?

Mr. KIESEL. I have given that notice to the committee.

Mr. THURMAN. Mr. President, I do not know whether the suggestion advanced by the gentleman from Weber is in order or will be entertained or not, but I trust not. The committee—a majority of them—are here with their report. If the minority of that committee who have known all the time everything that the majority have done and propose to do, are not ready with their report, that is their fault. We want this report read to-day. I want this made a special order as quickly as the business of this house will permit, and the matter disposed of. This minority may never report for all we know. They are not bound to.

Mr. VARIAN. Mr. President, under the rules, the report of the committee is referred, first, of course, to the committee of the whole. I do not understand that this Convention as such will undertake to regulate the sitting of that committee.

But there is still another proposition underlying. It does seem that it would be a matter of grave discourtesy to the members of any committee, who have not been able to express their views in writing, on the request made not to extend that privilege, if it be a privilege, but a suggestion that there is nothing to do under the rules but to refer this report to the committee of the whole, without an order.

The PRESIDENT. There is no order necessary. It goes there under the rule.

Mr. VARIAN. Mr. President, I would like to send up a report from the committee on rules. I call attention of the chair to the fact, that I believe there is a report laid over from yesterday,

which, under the rules, would come up to-day.

Mr. CHIDESTER. Then I understand that to be the case, but I understand also, that this committee is not obliged to lie still and wait for a minority report; we simply ask to have this made a special order for Tuesday—if this is the proper time. I did not understand the chair's ruling upon that.

The PRESIDENT. This is the proper time. Reports of the committees are in order, and under the rule, it has gone to the committee and there is nothing before the house.

Mr. VARIAN. I understand, under the rule, it goes to the committee of the whole, and there it will be brought up again probably.

Mr. THURMAN. Mr. President, we think the report ought to be read and referred.

The report was read by the secretary as follows:

Convention Hall, Salt Lake City,
March 22, 1895.

MR. PRESIDENT:

Your committee on elections and right of suffrage, appointed to draft and present an article on that subject, to whom was referred:

File No. 1, introduced by Evans, of Weber.

File No. 2, introduced by Eichnor, of Salt Lake City.

File No. 3, introduced by Evans, of Weber.

File No. 17, introduced by Page, of Sanpete.

File No. 24, introduced by Thoreson, of Cache.

File No. 37, introduced by Strevell, of Weber.

File No. 69, introduced by Thurman, of Utah.

File No. 109, introduced by Stover, of Tooele.

And also divers memorials and petitions presented by the ladies of Weber, Utah, Juab, Wasatch, Salt Lake, and Davis counties, and the Woman Suffragists Association of Utah Territory, respectfully report that we have carefully considered all of said propositions and memorials and hereby return the same, together with a draft of an article upon the subject referred to us and recommend it as a substitute for said propositions and as the responses to the said memorials.

Your committee do not claim absolute perfection for the draft herewith presented, but state that such as the instrument is, it is an expression of the best judgment and most candid deliberation of the majority of the committee. The committee in performing their labors have endeavored to be governed and controlled by the principle that in a republican form of government every citizen of the United States of reasonable intelligence, not convicted of crimes which strike at the foundation of popular government, should be eligible to vote, and exercise in addition thereto such political privileges and honors as their fellow-citizens see fit to confer upon them, keeping in mind that taxation without representation is not only unjust but contravenes and comes in conflict with the very genius of our political institutions. The committee by this article have conferred upon women the right to vote and exercise political privileges equal with men. The difficulty with the committee in considering this subject has been to find a reason why women should not have this privilege, rather than why they should. Not being able to find any logical reason why they should not, and deeming the political discriminations heretofore existing in this respect as unreasonable and unjust, a majority of the committee strongly favor the adoption of that portion of the article which in terms establishes the political equality of the sexes; upon this subject we have adopted literally the language of the Wyoming constitution, in which state woman suffrage, after twenty-five years' experience, has been demonstrated to be a pronounced success. Upon all other portions of the article herewith presented the committee have been and are practically unanimous.

Respectfully submitted,

J. F. CHIDESTER, Chairman,
A. S. ANDERSON,
JOS. E. ROBINSON,
PARLEY CHRISTIANSON,
PETER LOW,
J. D. MURDOCK,
CHESTER CALL,
A. ENGBERG,
A. H. RALEIGH,
WM. HOWARD,
F. A. HAMMOND,
S. R. THURMAN,

Members of the Committee.

Mr. KIESEL. Mr. President, I wish to state that the committee—that part of it which intends to bring in the minority report, has not had time to make their minority report, because this matter was only acted upon in our committee this morning a little before

noon. We have not had time to prepare our minority report. I venture to say that there is much to be said upon this subject, and that the conclusions that are embodied in the report are confusing to my mind. For this reason I want to bring in, together with my colleagues, a minority report, and I ask in all fairness that we shall be given ample time. There has been a great deal of time used in other matters. I do not see why we should not have time to prepare a minority report.

Mr. VARIAN. Mr. President, I arise to a point of order. This whole matter is out of order unless you suspend these rules, and there is no rule preventing this gentleman from bringing in a minority report. There is going to be plenty of time. I don't suppose we are going to consider all of these questions in an hour or a minute.

(Reads rule 19.)

The committee has a calendar. Another rule provides that when that committee reports it goes back upon the Convention calendar for a third reading and then is the time to make special orders. I now call, under the rule, for the reading of the report of the committee on rules which went over from yesterday. It has precedence.

The PRESIDENT. The point of order of Mr. Varian is well taken.

Mr. THURMAN. Just one moment. I did not understand one thing the gentleman said, and that was, when is the proper time to make a special order?

Mr. VARIAN. Propositions are read in the Convention a first and second time and referred to the standing committee, then to the committee of the whole; after which they go on the Convention calendar for a third reading. I submit to the gentleman from Utah.

Mr. THURMAN. Mr. President, permit me to say one thing in relation to the matter.

The PRESIDENT. There is nothing before the house, gentlemen. This matter has gone to the committee.

Mr. THURMAN. Well, Mr. President, is there anything wrong in having an understanding about the matter?

The PRESIDENT. No; if there is a misunderstanding it is perfectly legitimate.

Mr. THURMAN. Of course there is a misunderstanding, or I would not ask. I want to understand the time for this reason; I want to make a special order if now is the proper time.

The PRESIDENT. It was fixed for Tuesday after we get through the regular order.

Mr. VARIAN. I did not understand that order passed the Convention.

The PRESIDENT. No; the gentleman asked that it be fixed for Tuesday directly after the regular order.

Mr. VARIAN. I did not understand that order passed the Convention.

The PRESIDENT. No, the gentlemen asked that it be fixed for Tuesday direct after the regular order.

Mr. VARIAN. Who suggested that? That was a violation of the standing rule. No motion was put and it was not carried,

The PRESIDENT. All right.

Mr. RICHARDS. Mr. President, I move that the consideration of this article may be the special order before the committee of the whole for Tuesday.

Mr. VARIAN. Mr. President, I make the point of order that it is not in order for this Convention to make special orders for the committee of the whole without suspension of the rules.

(Reads rule 21.)

There is a standing rule. There is no pressing necessity for exigency in this matter.

Mr. CHIDESTER. Mr. President, I move an amendment to the motion by suspending the rules and making it the special order for Tuesday at 2 o'clock p. m.

Mr. RICHARDS. I accept the amendment.

Mr. CANNON. Mr. President, I see no reason why we should attempt at

this time to make this a special order. I think we should go on with our business and when we have considered the bills that are before the committee of the whole—two bills are already there—we then would consider what time would be the most convenient to take this matter up. I am opposed to the motion for that reason.

Mr. THURMAN. Mr. President, the reason we want the matter determined now is this, that these reports will be coming in every day; as fast as they come in they take their regular place in the committee of the whole, and this matter would be crowded to the background. Now, we want it disposed of. I can speak freely on this for it is not a party question. All of us want this thing. We have agreed to have it and let us dispose of it.

Mr. ROBERTS. Mr. President, I am opposed to making this a special order for Tuesday next at this juncture. I think that if the majority of this committee making this report has any due regard for the rights of the minority of that committee, since they only concluded this morning to make that report, and have had notice served upon them that the minority desired to make a report, I think the majority are treating the minority with scant courtesy, to say the least of it, when they do not permit that minority to make its report and accompany their majority report, which could doubtless be done at an early date; and if they are so sure of their position, I think they would manifest a little more confidence in it, if they would grant this privilege asked for on the part of the minority. There seems to be unusual haste in rushing this. I understand also, sir, that the question includes not only the suspension of the rules but the fixing of this matter for Tuesday, and I am trying to argue that part of the proposition that it ought not to be done, and this report of the majority ought not to be placed here until a reasonable time at

least has been granted to the minority of that committee to make its minority report, and have these two propositions or these two reports come together and not separate them. And I take it the gentlemen manifest undue haste in refusing to grant to the minority an opportunity to make their report to stand side by side with the report of the majority. Therefore, I am opposed to the proposition.

Mr. ELDREDGE. Mr. President, I am opposed to this motion on two grounds. In the first place, I think the majority can consistently wait at the request of the minority, to give them a reasonable opportunity to present a minority report. And, secondly, there will be reports coming in from the committees perhaps each day from this on, until the committees have all reported, and I am in favor of the reports taking their turn upon the calendar just as our rules provide. They provide that every proposition shall be considered and acted upon in the committee of the whole in its order upon the calendar. This will go on to the calendar and let it come up in its turn. There is no such thing as making a delay by letting it go on the calendar, or crowding it to the wall. It simply takes its place in common with other reports. Therefore, Mr. President and gentlemen, I am opposed to the motion.

Mr. ANDERSON. Mr. President, I would like to correct an impression that seems to be had by some of the members. The only section that there is any opposition to is the first section, and this was passed upon by the committee on the second day that we met, which was nearly two weeks ago, and yesterday every section of the article that we proposed to adopt was passed upon separately, and a minority have had the last two weeks to make up a report on this section that they are opposing, and they knew that we were going to make up our report.

Mr. THURMAN. Mr. President,

would like to ask one question for information before the vote is taken. I would like to ask the gentleman from Weber when the minority will report?

Mr. KIESEL. We will consume a reasonable time only.

Mr. THURMAN. You cannot give the Convention any satisfaction?

Mr. KIESEL. It depends upon my colleagues. I have not had any conference because this matter was only passed this morning as I stated, and I have not had any time for conference with these gentlemen, and we shall not take any advantage. Mr.—

The PRESIDENT. That is all out of order.

The motion was lost by a vote of 37 ayes to 55 noes.

The PRESIDENT. It goes to the committee of the whole in its regular order upon the calendar.

The report of the committee on rules was then read by the secretary as follows:

MR. PRESIDENT:

The committee on rules herewith report and recommend that the standing rule 20 be amended by striking out all after "debate," in line seven of the printed rule. C. S. VARIAN,
Acting Chairman.

Mr. VARIAN. That lies over one day under the rules. There was another report presented yesterday that ought to be read.

By request Mr. Hatch and Mr. Higginson were granted the privilege of the floor.

The following report from the committee on rules was read:

MR. PRESIDENT:

The committee on rules, to which the report from the committee on schedule, miscellaneous and future amendments, recommending that the membership of that committee be increased by adding thereto two members from the cities of Salt Lake and Ogden, was referred, beg leave to report the same with the recommendation that said committee be so increased.

Mr. VARIAN. I move the adoption of the report.

Seconded.

Mr. BOWDLE. What is the purpose of this amendment. The report does not show.

Mr. VARIAN. I will state, Mr. President, for the benefit of the gentleman, I do not know except that the committee on schedule and other things made the request of the Convention that it should be done, and out of courtesy to that committee our committee acceded to it.

Mr. BOWDLE. Was there any request stating what subject they were contemplating or discussing?

Mr. VARIAN. Not at all, that I know of. It did not come to my committee. It might be in the minutes.

Mr. EVANS (Weber). Mr. President, that was the reason given in the Convention.

Mr. RICKS. Mr. President, it was before stated they had under consideration an article on prohibition and that Salt Lake City and Ogden were not represented on the committee and we thought it advisable to increase the committee so as to give them representation inasmuch as they were directly interested in that question.

Mr. CANNON. Let me ask the chairman of the committee if the entire committee asked for that increase?

Mr. RICKS. No, sir. It was just a majority of the committee.

Mr. CANNON. Was the minority opposed to the increase?

Mr. RICKS. They were opposed but they made no minority report.

Mr. ROBERTS. I would ask the chairman of the committee if there was any votes against the proposition to so increase the committee in the committee meeting?

Mr. RICKS. I don't recall whether there was any vote against it or not.

Mr. MURDOCK (Wasatch). Mr. President, I voted against it.

Mr. RICKS. Mr. President, I did not

favor the report myself, but I did not report against it.

Mr. VARIAN. I found that report. I will say that the clerk was unable to find the original document, and we had nothing before us except that this committee had recommended it. I believe it is signed by Ricks, Chairman, as the report of the committee.

Mr. ROBERTS. Mr. President, the committee on schedule, future amendments, and miscellaneous will have before them—indeed they have before them now the question of prohibition. All the resolutions and memorials on that subject have been referred to that committee. We discovered that Salt Lake and Ogden, two locations in the Territory, which will be most affected by the action of this Convention on that subject, had no representation on that committee, and we were of the opinion that in fairness and justice to the proper regard for those whose interests are involved in this question, they ought to have representatives present there to set forth before the committee the reason why this course or that course ought to be taken in that matter, and to have the advantage of their knowledge and information on the subject from these two important localities. I take it that in the discussion of committees and in the discussion of these subjects that are up for consideration nobody desires to take any advantage of anybody else, or take snap judgment upon them, and it is only fair and right that these two localities in this Territory so deeply interested on this question, ought to be represented on that committee, and for the benefit of the committee itself, that we would have gentlemen there acquainted with the conditions existing in these two localities, to give us the information that the committee required in dealing with the proposition, and for that reason I hope this rule will be adopted and the committee increased as suggested by the committee on schedules, by the

appointment of the gentlemen from Ogden and from Salt Lake City.

Mr. CANNON. Mr. President, and gentlemen of the Convention, I am opposed to the increase that is proposed at this time, for the reason that I do not believe that it is a proper thing to do at any time when a measure is presented before the committee, to canvass that committee and find out whether or not the opponents of the measure have sufficient strength to defeat it or not, and if not, to come into a Convention and ask to have the committee increased to such an extent that they may defeat the proposition before the committee. Whether or not I favor this proposition that is up for consideration has nothing to do with the question. I will take the position that I please on that when it comes before the Convention. But I do not think that it is right for the opponents of any measure to go and find whether they have sufficient strength, and immediately upon discovering that fact, to come in and ask that they may have more members added to the committee, in order that they may smother any bill that may be presented there. For this reason and believing that is a status of the case there, I am opposed to any increase.

Mr. IVINS. Mr. President, looking over the rules I find that this committee on schedule, future amendments and miscellaneous is composed of nine members, all men of ability, all men of good judgment, and I cannot see—I cannot conceive that there is a necessity at this stage of the game to add other members to that committee, in order that this question should have proper and careful consideration. It has been stated that the design is to give opportunity to Salt Lake City and Ogden to be heard upon this important question. I wish to ask, Mr. President, if the fact that there is no member of that committee who is a resident of Salt Lake City or Ogden will debar any

citizen from Salt Lake or Ogden from appearing before the committee and giving them the benefit of their views—the benefit of their wisdom? No, they can get all the information they want just as well with a committee of nine as they can with a committee of eleven. I can see this, Mr. President, that to increase this number, placing upon this standing committee a member from Salt Lake and another from Ogden, might have a very material effect on the vote. The knowledge that they have could be used to no better advantage by the committee, than it can be if the gentlemen appear and make their statements before the committee. But it adds two other votes, and I ask myself in a moment, is this a design? It has not been stated here, and if it is not such a design, then I will stand corrected. But information has come to me so direct that I cannot doubt that this is a design to increase the strength of the members of that committee who are opposed to this question of prohibition. It is because of this, gentlemen, that I shall oppose it—that I shall vote against it. And I wish to call the attention of those delegates to the fact that it will require two-thirds vote to add these two members to the committee and I trust that that two-thirds vote will not be obtained.

Mr. VARIAN. The gentleman is mistaken. It only requires a majority.

Mr. IVINS. I would like to read, in answer to what Mr. Varian says, rule 37. (Reads.)

Mr. VARIAN. Read the next rule.

Mr. JAMES. Mr. President, I arise to a point of order. This matter is not before the house for discussion whether that rule is correct or whether it is not.

Mr. IVINS. Without further reference then to the rules, I simply wish to call attention to that fact. Now, I believe in fairness and I do not see any fairness or any necessity of increasing this committee. I believe the nine men

are just as capable of making the report to this Convention as eleven will be, and when it comes here we have got to take action upon it. It is all going to come before the Convention anyhow, and I am opposed to any rule by which this committee may be consistently increased in order that some particular design should be accomplished.

Mr. ELDREDGE. Mr. President, I am in favor of this proposition to concede to those the privilege of adding two more members to that committee and, in brief this is my reason; in the first place, I believe in a proper representation, and as expressed by the chairman of that committee it was in order to give Salt Lake City and Ogden City a voice in that committee, and with that view I will support the measure, that those may be heard in that committee before it comes to this floor, and I am very pleased to note that my friend from Davis County stands with us for representation.

Mr. RALEIGH. Mr. President, if it was in the interest of fairness, I would be very pleased to accord the opportunity of placing two more members in that committee. But I am persuaded that it is not in the interest of fairness. I think I am posted on this matter and I shall express about the same views as have been expressed by Mr. Cannon and Mr. Ivins. Now, if I had no confidence in the members of that committee, if I did not think they were competent to perform the duties and labors that have been assigned to them by the president, I would accord with pleasure the opportunity for two more members to be added to it, but I do not believe in such doctrines. I do not believe that it is in good faith at all. I believe their design to be to add to that committee in order to defeat that measure that is before the committee. That is my opinion and I think I am well posted on the matter.

Mr. JAMES. Mr. President, I regret to take up the time of the Convention

for a moment unnecessarily, but it does seem to me that there has been some things said about this matter that ought to be answered. It has been raised upon this floor that the members of the committee asked to be added to that committee would be prejudiced. Now, I take it for granted that that is not true. I think the president will select gentlemen from Salt Lake and Ogden that will be fair, impartial and just, and that they will truly represent the people of those districts, which are the two great centers we have in our Territory, and for that reason I hope that this motion will not prevail. I do not think that it is done for the purpose of putting on this committee some gentlemen that will defeat the object of a committee. Now I do not think that is just the way to put this question, and I am very much pleased to see the position that some gentlemen have taken on this floor that it is for the purpose of giving representation, and not for the purpose of handicapping a committee.

Mr. EVANS (Weber). I do not desire either to take up the attention of the house, but coming from Ogden which is not represented on that committee, I think I should say a word. It seems to me that no gentleman upon this floor ought to object to such cities as Salt Lake and Ogden having a representation on that committee, at least since the gentleman has asked it. Gentlemen, let us extend the courtesy and vote upon it.

Mr. GOODWIN. Mr. President, a committee of this house have made a request. The house after considering it granted the request. The matter was referred to the committee on rules. The committee on rules took the trouble to investigate and report. There has been considerable said on this subject on the motives of men and prohibition generally, but it is simply a courtesy to that committee. I think it ought not to take one minute to decide. If any

other committee was to ask a similar courtesy here I think it would be granted. Why is that committee picked out? I believe the request here includes the chairman. We will discuss the other question when it comes until we get tired of it. It is not due here to-day.

Mr. RICHARDS. Mr. President, I am in favor of this motion, but not because I think the addition of the two members is desired for the purpose of advancing or defeating any particular measure. I am in favor of it because the committee has asked for it, and I think we ought to grant it. It seems to me the question is an unfair one, although I am satisfied my friends who have made it have not made it in the spirit of unfairness; it presupposes either one of two things, either that the president will be partial in the appointment of members from Salt Lake and Ogden, or else there is nobody in the delegates from those two places, that would favor the proposition that is suggested. Now, I suggest in the first place, that we cannot attempt any unfairness on the part of the chair in making these appointments. I desire further to say that if it be true that there is no member of the Salt Lake or Weber County delegation that favors this proposition, no matter what it may be, whether for prohibition or anything else—if it be true that one-third of the population of this Territory are not in favor of the proposition, that itself is a sufficient reason why they should be represented. So I say, that under any consideration, in any view of the case, these two cities should be represented.

The report was adopted.

Mr. Partridge was by his request excused.

Mr. LUND. Mr. President, as the chairman of the committee on accounts and expenses, I would like to ask, if according to the rule, we are only to keep account of the expenses and the vouchers for the same, or if we are to

know what expenditures are going to be made and say whether they are or not necessary. I make a motion that it be the sense of this Convention that we be asked whether the expenditures should be made or not.

Mr. BARNES. I second the motion.

The PRESIDENT. That motion is out of order.

Reports of standing committees are in order.

Mr. BARNES. Mr. President, this gentleman who spoke is the chairman of one of the standing committees and I would like it to be considered in the nature of his report. We were undecided to know what our duty is and he has taken this method of reporting.

Mr. RICHARDS. Mr. President, I submit that that is not in order. If the gentleman desires information on this subject he can ask for it at a proper time.

The PRESIDENT. The point of order is well taken.

Mr. LUND. Mr. President, I will say that in the nature of the report from this committee that you accept an oral report that some expense was incurred that we deem unnecessary.

Mr. THURMAN. Mr. President, I move the report be filed. [Laughter.]

Mr. VARIAN. I would like to ask the gentleman if it is the intent to carry the reporter with the report if it be filed.

Hon. Jacob Johnson, of Sanpete County, was admitted to the privilege of the floor.

Introduction of ordinances and propositions for insertion in the Constitution.

The memorial from citizens of Salt Lake County on prohibition was again presented by Mr. Bowdle.

Mr. CHIDESTER. Mr. President, I move that the rules be suspended and the resolution read a first and second time by its title and referred to the proper committee.

Mr. BOWDLE. It is not a proposition for insertion.

Mr. VARIAN. Mr. President, I move

then as a substitute that it be referred to the committee of the whole with report of the committee on schedule, future amendments and miscellaneous.

The substitute was agreed to.

Mr. Thoreson introduced a proposition concerning first, water rights and privileges; second, state and county water commissioners; which was read a first and second time by its title and referred to the committee on water rights, irrigation and agriculture.

Mr. McFarland introduced a proposition relative to water rights, which was read a first and second time by its title and referred to the committee on water rights, irrigation and agriculture.

Mr. Kiesel introduced a proposition relative to fish and game, which was read a first and second time by its title and referred to the committee on schedule, future amendments and miscellaneous.

Mr. Kiesel introduced a proposition relative to the preservation of forests, which was read a first and second time by its title and referred to the committee on water rights, irrigation and agriculture.

Mr. WELLS. Mr. President, I move we now resolve ourselves into committee of the whole for the consideration of preamble and declaration of rights.

Seconded.

Mr. VAN HORNE. Mr. President, the committee on rules not having yet changed the rule by which the committee can rise and report at any time, I move that we resolve ourselves into committee of the whole until 5 o'clock this afternoon—as an amendment.

Mr. WELLS. I accept the amendment.

Mr. HART. Mr. President, I arise to a point of order. This is not in order under the order we are now considering. The chair has not yet announced that motions and resolutions are in order. I think this motion should come

up under that. I do not want to be captious. The reason I make it is that I believe a motion should be made before going into committee of the whole. A special order was made some days ago for consideration by committee of the whole, and if you got into committee of the whole for changing that, we would have to consider that, and I think that the delegates here do not care to break into the work of considering the preamble of rights now, and take up a subject foreign to that. That is the reason I arise to a point of order.

The PRESIDENT. It seems to me that that point of order is well taken.

Special orders.

Mr. PIERCE. Mr. President, as the chairman of the committee on education, I move that the action of the Convention the other day by which they made this bill on education a special order, at this time be reconsidered and come up immediately after the bill of rights.

The PRESIDENT. If there is no objection the request of the committee will be granted.

Motions and resolutions.

Mr. SQUIRES. Mr. President, I understand that the secretary of the Convention has been to some expense under a resolution offered by Mr. Evans, of Weber, regarding the writing of some thousand letters to different parts of the Territory, and as no provision was made to furnish postage, and the Convention voted not to furnish postage, I move now that the secretary's bill for postage be paid out of the funds appropriated.

Seconded.

Mr. LUND. Mr. President, I would say for the information of the gentleman that there are no funds yet that we can lay our hands upon.

Mr. VARIAN. There will be.

Mr. KIESEL. Mr. President, I wish to amend this motion and add that the expense of the several chairmen of com-

mittees incurred in that respect also be paid.

Mr. SQUIRES. I accept that.

Mr. HART. Mr. President, I move to refer the motion with the amendments to the committee on accounts and expenses.

Seconded.

Mr. BARNES. Mr. President, I wish to state the condition of matters to-day. I am informed by the secretary that he requires something like ten dollars' worth of stamps at the present time, in order to properly mail letters in conformity with his duty, and the question is, where shall the money come from to provide him with the stamps.

The motion was agreed to.

Mr. Maloney introduced the following:

Resolved, that it be the sense of this Convention that its labors be completed within the shortest time practicable and consistent with good and efficient work, and that we incur no indebtedness to be paid by the future State of Utah.

The resolution was adopted.

Mr. Ricks introduced the following:

Resolved, that rule 20 be amended as follows:

By striking out the clause "nor a limit to be made as to the number of times speaking," and inserting in lieu thereof the following: "No member shall speak more than twice on the same subject and no speech shall occupy three minutes."

The PRESIDENT. It goes to the committee on rules.

Mr. WELLS. Mr. President, I now move that we go into committee of the whole.

Mr. RICKS. Mr. President, I move to amend by adding "until 5 p. m."

The motion as amended was agreed to.

COMMITTEE OF THE WHOLE.

The Convention then resolved itself into committee of the whole with Mr. Squires in the chair.

The CHAIRMAN. When the committee of the whole arose yesterday, section 10 of the bill of rights was under consideration. The gentlemen will find upon their desks the printed amendments of both sections 4 and 10, as required by the Convention.

Mr. EVANS (Weber). Mr. Chairman, I desire to withdraw the amendment to section 10 which I offered, if it may be done under the rule, with the consent of my second, and would like to introduce a substitute for it, which I will send to the secretary's desk to have read.

The same was read by the secretary as follows:

Section 10. The right of trial by jury shall remain inviolate, but the Legislature may provide a less number of jurors than twelve in prosecution for offences below the grade of felony, and in civil cases. A verdict in such cases may be found by a concurrence of two-thirds of the jurors, and the jury shall be waived in civil cases when not demanded as the Legislature may provide; provided, that a jury in the district court shall consist of not less than nine, and a jury in the county court shall consist of not less than six, and a jury in the justice's court shall consist of not less than three.

Mr. VARIAN. Mr. Chairman, I would like to ask what becomes of all these amendments then?

The CHAIRMAN. The amendments are all pending.

Mr. VARIAN. Well, to what? I offered an amendment. The amendment that was offered by me applies to the matter that he withdraws, and I certainly would have a right to say whether that could be done or not.

The CHAIRMAN. You have that right.

Mr. VARIAN. Well, I prefer to let the matter stand as it is, and if all these matters are voted down, Mr. Evans will have an opportunity to re-introduce that matter in the shape he desires. It will do away entirely with my amendment and probably with the second amendment, because the amendment

was made to the substitute and not to the original section and refers to the substitute offered by Mr. Evans by line and word.

The CHAIRMAN. Under the circumstances the printed amendment will have to stand.

Mr. PIERCE. Mr. Chairman, I rise to say a few words in support of the amendment of Mr. Varian. The only remarks I want to make are upon the question, as to whether a jury in civil actions in courts of record should be twelve or less than twelve. If I understand the amendment of Mr. Varian correctly, it provides for a jury in civil actions in courts of record of twelve, nine of which can render a verdict. I am in favor of this. I do adhere to precedent. I believe in precedent. The reason I believe in precedent is because it contains the wisdom of all ages that have gone before us, that have had the same subject under consideration. This is the provision as it exists all over the United States. There is not a single state in the Union, if I understand the proposition correctly, that provides for a jury in civil cases in courts of record of less than twelve men. The reason constitutions which have been enacted by all of the different states adhere to the old common law jury, many of them, however, providing that a verdict by less than twelve can be rendered—it seems to me that there is some reason why this precedence and why this line of thought are followed by all the states that have recently adopted constitutions. The state of New York during the last year had under consideration amendments to its constitution. If the wisdom of that state in previous years, through all their practice in civil actions, had led that state to believe that a jury of twelve men in civil cases was sufficient to try a case, why was not that question brought before them? And I think, gentlemen of the jury, that we should hesitate [laughter]—

excuse me, gentlemen of the committee, I thought I was addressing a jury of twelve men. Gentlemen of the Convention, we should hesitate a long time before we take this first important step to our jurisprudence. It seems to me that we are not the ones that have discovered this great secret that nine can render a verdict, but that if it was of great advantage, as it is represented by the gentlemen upon the other side, other men framing their constitutions must have discovered the secret before this. I think if there is any one time when this Convention ought to follow the precedent of all ages, this is the time. It seems to me that we can not do better than adopt the system that all the states in the Union, following the old common law, have adopted. Now, gentlemen of the jury [laughter], there is a reason why twelve men are better calculated to render a verdict than less than twelve men, and I am going to give you that reason. We were asked to give a reason yesterday for it, and I am going to give it to you. Men's minds are constituted differently. No one man thinks as his neighbor does. Take any twelve men upon this floor, no one will give exactly the same reason for his judgment that another man will give. Now, sir, the experience of men, the experience of courts, have taught us that where there are twelve men together, twelve different minds reasoning upon the same proposition, they will arrive at a better conclusion, and a more satisfactory conclusion, than nine or less than that, and I believe that that is the secret. We have twelve different views of the proposition that is before the court and before the jury and the views of twelve men unite in a consensus of one view upon the final verdict.

The verdict then will express the opinion of twelve men; the twelve men will have different reasons for their views; each man will have his own reason, and it seems to me that this is

a thing that we should follow. I do not believe that we should be the first to take this important step, and I am opposed to it and I am going to stand for the old common law jury system and vote that the jury shall be twelve and that nine can render a verdict; and the reason that I am willing to vote this way is because if we allow nine to render a verdict and not make it unanimous, we remove the three. It is possible sometimes that in any jury there may be corrupt influences brought to bear upon the jury and that influence may affect one or two, or three men, but it is very rarely that it will ever go to affect four men on the jury. And that, I believe, is why the verdict should be by nine and not a unanimous verdict, and I am in favor, gentlemen, of the proposition of Mr. Varian.

Mr. CREER. Mr. Chairman, for information of the gentlemen, I wish to read from the constitution of Wyoming to show that we would not be the first to establish this precedent as indicated by the gentleman from Salt Lake. "The right of trial by jury shall remain inviolate in criminal cases, but a jury in civil cases in all courts, or in criminal cases in courts not of record, may consist of less than twelve men, as may be prescribed by law." So we would not be the first to break the established order.

Mr. PIERCE. Then I take that back.

Mr. WELLS. Mr. Chairman, I desire also to call the gentleman's attention to the fact that that section as reported by the committee is the identical language of the constitution of the state of Washington, that provides for a jury of less than twelve in courts of record, and for a verdict of nine or more jurors in criminal cases in any court of record.

Mr. THURMAN. Well, if I am not mistaken, Mr. Chairman, this is the worst mistake I ever made in my life. If I am mistaken in what I now say, I should be in Provo sure, and, sir, [laughter] a mile east of the bank cor-

ner. The fact of the business is I am not mistaken. I have been having hard work for several days trying to get gentlemen, among whom is the honorable gentleman himself, to come up to a jury of nine in criminal cases, to say nothing about civil, and we reach that point. A jury of nine—in criminal cases a verdict unanimous; in civil cases a verdict by two-thirds in courts of record. In inferior courts a less number of jurors but still a verdict by two-thirds. Somewhere and at some time before the close of this Convention, I would like to know whether gentlemen can stand upon the same propositions and maintain them for two consecutive days.

Mr. Chairman, I am in favor of the amendment proposed by the gentleman from Weber, Mr. Evans. I am in favor of reducing the number of jurors from twelve to nine unless some gentleman can arise upon this floor and give a better reason for continuing twelve jurors than the simple reason that all men's minds are constituted differently. What reason is that for a jury of twelve? If every man's mind is constituted differently from every other man's mind, is that any reason why it takes exactly twelve men to logically, and fairly, and squarely, determine a proposition? Certainly it no more demonstrates the fact that twelve are necessary than that nine are necessary, or, if it be true that the greater number we have the better the jury will be, why not have fifteen, or twenty, or twenty-five, or thirty? Or why not adopt what the gentleman unwittingly expressed when he says, in referring to us, "you, gentlemen of the jury," why not have one hundred and seven and be done with it? Now, I am inclined to suppose that when the gentleman from Salt Lake calls us gentlemen of the jury, that in his desire to have a great number he had at some time been figuring on a possible jury of one hundred and seven. The fact of the business is this,

it has only been a few years since the legislature of any state concluded that it was possible to so far draw away from the old rut as to agree that nine might bring in a verdict. Many states have come to that. All the gentlemen who are contending here for a jury of twelve concede that was a wise innovation. They accept that. By their proposed amendments here, they can see that nine may bring in a verdict. What do they mean by that, and what does that argue to this Convention? That is the first innovation made upon this grand sacred common law jury which has been proved and demonstrated to be a success, and that the very gentlemen here who are arguing now in favor of the old common law jury, conceive that that innovation is good and should be made.

Mr. Chairman, if we are admitted into the Union as a state, we will find upon the very threshold of our admission that we have the burdens of a heavy taxation to bear. It will bear heavily upon the people of the Territory of Utah; they will be admitted into the Union during the hard times through which we are now passing. Let us look something to the economy of this question—let us consider that phase of it. I do not ask you to lay aside principles which are acknowledged to be wholesome and sound and go and accept something that is radical and uncertain simply because of the economy; but I reiterate the question asked by the gentleman from Weber yesterday afternoon, can any man say why the number should be twelve rather than nine? If then it be true that there is no difference that you can point out that is material why the number should be twelve rather than nine, why make this point on our side of the question, that there are three less men for which the State of Utah will have to pay. That of itself is a consideration which I cannot ignore, and I believe that a jury of nine will prove just as effectual, will be

just as well calculated to preserve the liberties of the people, and the rights of the people, as a jury of twelve. And, on the score of economy, I am in favor of the amendment as it is now proposed. I was opposed to it as it was yesterday proposed, but favor it as now proposed by the gentleman from Weber.

Mr. PIERCE. May I ask the gentleman a question? Why don't he argue for five instead of nine?

The CHAIRMAN. Just a moment, Mr. Pierce. Is Mr. Thurman speaking to the substitute for the amendment offered by Mr. Evans? This has been declared not in order because it cannot be considered without doing away with the amendment offered by Mr. Varian.

Mr. THURMAN. Very well, then, Mr. Chairman, my remarks may be construed as against the field; if that is out I am against the field.

Mr. RICHARDS. I am in favor of the proposition to have a jury in civil cases of less than twelve. I know that there is great reluctance in the minds of people generally, and particularly of lawyers, to depart from old and long established usage, but there are times when progress and the spirit of the age requires that we should break some of the bands that have bound us for ages past, and human progress requires that some innovation should be made. Now, during the last few years in the constitutions that have recently been made, these matters have been taken into account. Men who have had long experience in the courts, had practical experience, in the operation of juries, have come forward and given their experiences, and the conclusion has been arrived at that the liberties of the people would be safe, the liberties of the citizens would have been safe in the hands of less than twelve men. That is my firm and positive conviction after some experience in these matters. I believe in a less number than twelve. I do not believe in requiring a unanimous verdict. I do not think there is any special

reason why twelve should be the number any more than fifteen or twenty. And when we come to consider the reason and conditions that exist now, as compared with those that were existing who first adopted the jury system, and from whom we inherit it, we can see many reasons why these changes should be made and ought to be made, and without entering into those matters, because I realize that the time of this Convention is valuable, and I feel, myself, as though I wanted to resist any temptation that I might feel to indulge in any flights of oratory and spread-eagleism over this great charter of human liberty. I think the thing we ought to do is to get right down to business, and to determine what is practical and what is best for the people of this new State.

We ought to throw aside sentiment, if it is sentiment, and sentiment alone, and not cling to some work of the past simply because of its antiquity, when we concede or ought to concede, if we are honest with ourselves, that it has lost its usefulness and utility. And so I say I am not in favor at this time of the abolition of the jury system. I do not advocate that, but I do say it would be a retrograde movement on our part for us to insert in this Constitution a proposition to require a unanimous verdict of twelve men, or even to require a jury of twelve men with a three-fourths verdict. I think we ought to have a less number. Why should there be twelve men if nine could make a verdict? Without prolonging my remarks, gentlemen of the Convention, I believe that is a principle we ought to adopt in this matter. And while we ought not to be hasty in making innovations on the institutions of the past, we ought not to be afraid when an improvement is pointed out to us to take advantage of it and to find ourselves in the line of progress in these matters with our sister states around us.

Mr. EICHNOR. I would like to ask

the gentleman from Salt Lake a little question. Are you in favor of reducing the number of jurors in criminal cases?

Mr. RICHARDS. No, sir; I did not say that.

Mr. EICHNOR. I know you did not. I wanted to know for information. You are not in favor of reducing the jury in criminal cases?

Mr. RICHARDS. If that recommendation were before the Convention I am not sure that I would not vote for it, but I do not believe that it would be popular with the Convention. I doubt if it would be popular with the people.

I say, Mr. Chairman and gentlemen of the Convention, candidly, that in my estimation the people of the country are not educated up to this matter. In my opinion they over-estimate this—what has been denominated on the floor of this Convention, this great bulwark of human liberty. They over-estimate its importance, in my opinion, and I am seeking and shall seek in my labors in this Convention to accomplish that which is practicable. I shall seek to introduce into the Constitution, so far as I have influence, those things only that I believe will meet with the approbation of the people, and while I would like to educate them in these matters as far as we can, I would not favor an innovation that would meet, in my opinion, with disfavor from the people. As to criminal cases, therefore, I think it would be wise to retain twelve jurors and require a unanimous verdict, because I think the sentiment of the people probably would demand that, but in civil cases, no. It is an unnecessary expense. It results in trials and mistrials. It results in the expenditure of vast sums of money in litigation in men trying to determine their rights, that might be saved and the rights of the people preserved, just as well as to require this jury of twelve with the unanimous verdict. That is the result of my experience and my observation.

Mr. VARIAN. Mr. Chairman, I want

only to say a few words on this matter. I quite agree with my colleague from Salt Lake that this is a practical question, but I do not agree with the intimation that he throws out that we ought not to be permitted to discuss it, and ought not to take up any time.

We do not all agree with him on the subject, and I am not advised as yet that there has been any spread-eagle sentiment injected into the debate upon this question. There are some things connected with it which have been said and referred to, which it seems to me ought to be considered in a little different light. Allusion was made on yesterday by one of the speakers to a publication addressed to one of the committees of this house from the United States district attorney for this Territory, giving in figures the expenses for the previous year of the administration of justice in the courts here. From that I inferentially argue that the expense of the jury system is something enormous. I want to call attention of the house first to the fact that that report is misleading—not misleading as being intended to mislead, because it details correctly the facts, but misleading in its application to the consideration of this question. There are four districts in this Territory. Necessarily the jurymen and witnesses have to come long distances, some longer and some shorter, of course, and added to the great press of business, the inability of the courts as at present constituted, to dispatch it, long delays are necessitated. Grand jurors and trial jurors, witnesses in criminal cases and in civil cases, have to wait day after day. It is impossible to avoid it. Bills of that kind will accrue and the expense piles up. Then the district attorney's office is so hurried and overworked that they cannot take time to see all the witnesses in each case. They simply must throw out their subpoena and bring them in and make them await their convenience. As a matter of fact, any gentleman here

who has had experience on grand juries or trial juries knows that witnesses wait day after day before the grand jury or trial jury as the case may be, and all the time the expense is going on. And in that connection I call attention to a probable fact that within a week or two it was noted by the public press that the grand jury of the district in which the gentleman, Mr. Thurman, resides, was held by the United States attorney some five or six days to await the determination of a question of law relative to an indictment. All that fifteen men were held, according to that, five or six days, and their per diem went on, in order to await the determination of this question by the court.

Now, I assume that the judicial system proposed in this Convention by the committee on judiciary, will contemplate the holding of court in each county. I find that system in operation west of us now. Every month the judge comes around and holds the court. Sometimes in some of the outside counties there are two cases, sometimes one, he disposes of them and goes on to the next county. I was in the court in one of these counties the other day where a trial jury had been called to try a murder case. That was the only case ready for trial. There were two civil cases which did not require juries. The judge immediately called that jury and made the attorneys select the jury and try the murder case and discharged the rest of them. He went on that day and disposed of his civil cases, which did not require juries, and opened up trial of that murder case on the following day. So you see that with such a system this expense, which seems to be put forward here as the most potent argument in favor of these new innovations, does not necessarily reach the proportions that the gentleman would have us believe. It should not do so. But if it did there are ways to economize, it seems to me, in other directions than to

economize in this direction. We do not know that the State of Utah will be required to pay the juries at all except in criminal cases. It is very generally the rule in this western country for the litigants to pay the fees of the trial jury. The person who recovers the verdict does not have his verdict recorded until the per diem of the jurors shall have been paid, whereupon they are taxed up in his favor as costs against the losing party. I say we do not know what views this judiciary committee may have upon the question.

Mr. CREER. May I not ask you—would not that be reducing the expenses to the people generally to favor Mr. Evans' proposition, if the jury was smaller?

Mr. VARIAN. I understand it would reduce the expense of the jury system to the people generally, yes; I am only discussing this question from one standpoint now—the standpoint of expense. The question of expense, I hope, will also be considered when this Convention and these gentlemen on these several committees come to determine the question of taxation. I have no doubt, Mr. Chairman, there will be sufficient means to carry on this State government economically administered if all the property in the State shall be subject to its proper burden of taxation—property of corporations and money loaners as well as the property of the resident farmers and others. I do not think either that this question of expense should assume a prominent position in this argument. The question is one of right, upon which, of course, men may differ, but we are asked why it is that we should claim that the jury should remain as a whole—of the number of twelve. I might answer by retorting to the gentleman with the question, why not reduce it to one? How do you fix the number at nine? How do you come to fix that number? How do you fix it at eight or seven, or five, as may be according with your individual views?

Is not it the tendency, gentlemen, and is not that what you had in your mind in accordance with the tendency and the pressure of late years to force out and crowd out the jury system?

I have practiced law for some twenty-three or four years in my feeble way. I have yet to meet the gentleman of sufficient professional standing, learning and ability to receive employment at the hands of large capitalized incorporated institutions, but what in accordance with the general opinion of the people behind him, his ideas have gradually become changed and molded and shaped in that direction—to do away with the jury system entirely with a unity that is perfectly marvelous. They are ready to remodel the whole system, and submit cases for decision in the courts alone. Now, it is true that the jury system is an old one and is venerable and hoary with age, so is the judicial system as a whole.

It is no older than the system of judges; both date back a century or two in the very twilight of antiquity, away back beyond the age of Alfred. I cannot tell you what the origin of the number of twelve was.

Mr. ELDREDGE. I believe I can tell you, Mr. Varian. It was in the Twelve Tribes of Israel.

Mr. VARIAN. That has been suggested by some of the writers on the subject. I do not remember whether it was Mr. Forsythe, in his great work on trial by jury, or whether it was by the English law-writer Glanville. At all events it has been suggested that it was in analogy to the sacred judge—the Savior of mankind and His twelve apostles. I find it so far as I remember now upon what I have read upon the subject that there does not seem to be any definite fixed origin of the number of twelve, but this fact is true that for many, many centuries, not only in England, but beyond and way behind Saxon times in England, in other countries on the continent, in the Scandi-

navian peninsula, the jury system prevailed and it was always twelve and was always unanimous. I believe that in all European countries to-day where it prevails at all, twelve is the number, but I cannot not inform the gentleman why that number has been selected or determined in all these cases. I do know that is the system that seems to have been embodied and engrafted in the very body of English speaking nations. In England and in America it has gotten a hold upon the affections of the people that it requires no uncertain or indefinite reason to relax it. To-day, for a hundred years ever since the adoption of the Constitution of the United States, the system prevails under that government in all the federal courts—the jury system prevails as it prevailed at common law in criminal and civil cases. I have yet to learn that ever an attempt was made by any state or by any member of Congress to submit to the state a proposition to amend the Constitution in that particular. You will have that system as it now exists under the Constitution side by side in this State with the system you shall adopt.

Much of your business—most I should say of your important business, will find its way by gravitation into the federal courts, at least a very large percentage of it will find its way there. Your own citizens on one side at least, will be dealt with under this system in accordance with its provisions; whereas, if you make this change, you will have in the State courts a radically different system. That does not necessarily furnish any very pronounced argument if it stood alone why you should not adopt this system.

But coming now further down to the question of the people, I have forgotten just how it was presented yesterday, but some suggestion was made of arbitration. The gentleman knew we have always had statutes providing for arbitration. They exist everywhere. You

have one here in your code, wherein two citizens, if they so desire, can withdraw the differences in dispute between them and submit them to arbitrators under the law, and I venture to say, that not any one case out of two hundred—nay, three hundred—speaking just generally now without intending to be precise, I have made no estimation of it, but looking back in my own mind as it occurs to me whether—whatever people take advantage of that possibility—they are unwilling to do it, and in the same ratio, too, they decline to submit their cases to the decision of a judge, however learned, however able, however conscientious he may be. It shows to my mind that the people are still clinging to that right of trial by jury; they have an affection for it; they feel that as this government is constructed and as the pressure is growing stronger and stronger every day against them and their acts, and this one of the last holds that they have, it is upon the jury that they rely, not upon the court.

We are informed, and I did not doubt it, and I have thought it would be so, that the committee on judiciary have about concluded unanimously—the committee consisting of five practical lawyers with the rest—nine at least laymen, farmers, contractors, and others from the different businesses and pursuits of life—have in these few days reached a conclusion which is not only an innovation but is a startling innovation affecting the administration of justice in the State of Utah. When that question comes as to constitution of the trial jury in criminal cases I trust that it will receive a prolonged consideration if such is to be the report of the committee.

I would prefer, Mr. Chairman, if it is the sense of the majority of this Convention that the jury law system should be changed, that at least a limitation upon the change should be presented so that the Legislature might be permitted, if the temper of the people should de-

mand it, to make such further change in that particular as they might deem best, either to restore or to still further modify it.

In answer to the gentleman from Salt Lake, I will call attention to the proposition as it would stand if my amendment prevailed. In this event it would read, "the right of trial by jury shall remain inviolate, but the Legislature may provide for a verdict by nine or more in civil cases in any court of record." On yesterday, it was suggested by the gentleman from Utah, Mr. Creer, that he preferred to have a distinct and specific declaration in the section, as it was originally presented by the committee, that the Legislature might provide for a jury of any number less than twelve in courts not of record. I would have no objection myself to its going in there. The reason I did not put it in the amendment offered was because I deem it unnecessary. I think the Legislature has that power anyhow, if they choose to provide for a field where the constitutional jury can be afforded. Also, as to provision for waiving the jury in civil cases. There is no question about that; that has been decided and is acted upon every day where court sits. Lastly, I want to call your attention to the great sphere which is practically an object of the trial by jury at all in civil cases. The jurors speak only to questions of fact, the judges only to questions of law. That is the division which has been clearly defined, and as so defined and marked, has been continued through all time, ever since we have any knowledge of the jury system. These men, coming as they do from all the different walks of life—from the neighborhood as we understand it—which means from the county or the district with all the interests of the people, with the temper of the people, bringing to bear upon this decision that they are about to make of the disputed question of fact that may be submitted to them—they have better qualifications than

the judge, trained lawyer as he may be, who, in a measure is isolated by virtue of his pursuits, from the people.

Their judgment is sound, can better be relied upon in the long run than that of the judge. He has—in the very nature of things he becomes exclusive, wrapt up in his studies, inclined to become after a time, arbitrary. This argument would apply to any single juror. He is less apt to understand or comprehend all the field of disputed matter submitted than a number of men. It is a tribunal particularly and peculiarly adapted to determine such questions. It is a tribunal in which the people have confidence, and I do not believe that there is any justice or cause for the intimation that as a rule, or anywise subject as the extraordinary exception, are the trial jurors corrupt. The trial juries are just as good and no better than the people from which they come. I do not believe the people are corrupt. There are bad men everywhere; they occasionally creep into office; you cannot legislate wickedness of that kind out of the heart of man; you can only, when you discover him, set him aside and stamp upon him. So I say as to the intimation that was made here yesterday in regard to the purchase of jurors, I do not believe that there is any such thing in them as a rule than as to other officers. You hear those intimations here and there but it is unfair to the people, is unjust to the jurors; as a rule they are honest, as a rule they are capable, and as a rule, taking the cases as they come and go, I venture to say that their judgments are really and truly righteous judgments. We may, in the heat and zeal of the professional life, find ourselves unable to make a jury take the same view as ourselves of a particular question we have at heart and are employed to prosecute or defend, yet after all, if upon sober reflections we consider the question, in ninety-nine cases out of one hundred the lawyer who is dealing honestly

with himself (at least that is my experience) comes to the conclusion that perhaps after all he has been wrong. So I say if that is the way, all the more necessity for maintaining such a tribunal which is standing between the aggressions of the age of this great civilization of to-day, and the rights and the liberties of the people. I do not speak in a demagogue sense at all. My own views are extremely conservative. I have no design or desire of that kind. I simply look on and try and learn from experience, and as at present advised, I feel that this is a dangerous proposition which I, for one, am not willing to assent to.

Mr. BOWDLE. We have before us four propositions. There is in my mind—

Mr. GOODWIN. At the right time I shall withdraw my proposition and favor the one last offered by Mr. Evans.

Mr. BOWDLE. If the gentleman is going to withdraw it, I would prefer that he withdraw it before I make any remarks.

Mr. VARIAN. What is the proposition?

Mr. BOWDLE. The original proposition and the three amendments—

Mr. VARIAN. I do not want to take the gentleman from the floor, but I merely want to understand. I understand that the proposition of Mr. Evans is a substitute for section 10?

Mr. BOWDLE. Do you understand Mr. Goodwin's proposition is an amendment to Mr. Evans' proposition?

The CHAIRMAN. Mr. Goodwin's proposition is a substitute for both the amendments that were offered.

Mr. BOWDLE. Very well, then I will not withdraw until the Judge withdraws it.

Mr. GOODWIN. Mr. Chairman, I wish to withdraw my proposition in favor of the amendment made to-day by Mr. Evans.

The CHAIRMAN. That cannot be done, Judge. The amendment offered

to-day by Mr. Evans is not before the committee.

Mr. GOODWIN. I simply wish to withdraw mine.

The CHAIRMAN. Well, that is all right.

Mr. EVANS (Weber). Now, as that is withdrawn—I move now, as an amendment to the proposition which I last offered in the place of that withdrawn by Judge Goodwin.

The CHAIRMAN. I recognize Mr. Bowdle to have the floor.

Mr. EVANS (Weber). Only for the purpose of getting it before the house so that it may be discussed. That is all I wanted to say.

The CHAIRMAN. Mr. Evans now offers the proposition which he sent up before, which is a substitute for section 10.

Mr. VAN HORNE. Mr. Chairman, I would like to ask for information as to how the motion now stands—what motions are before the house on this subject?

The CHAIRMAN. Gentlemen, as I understand the question, on yesterday Mr. Evans moved to substitute section 10 by offering the printed amendment which you have before you. Mr. Varian moved to amend that as you see by the printed amendment. Judge Goodwin offered a substitute for both those propositions, which is also printed and before you. Judge Goodwin now has asked unanimous consent to withdraw his substitute and there being no objection it stands withdrawn. Mr. Evans of Weber now offers the amendment which was read by the clerk in the early part of the session, so that his amendment would be a substitute for all.

Mr. VAN HORNE. And I understand no further motion or amendment would be in order?

The CHAIRMAN. I should say not.

Mr. VAN HORNE. I had one, that is a substitute on the line of Mr. Evans' substitute that I would like to intro-

duce. If there is no objection upon the order of an amendment to the substitute, I would like to introduce it.

The CHAIRMAN. If there is no objection, Mr. Van Horne will state his amendment.

Mr. Van Horne read the following:

The right of trial by jury shall remain inviolate, but the Legislature may provide for a jury of not more than twelve and for a verdict by any number not less than two-thirds of the jury; provided, that until otherwise prescribed by the Legislature, the jury in civil cases in the district courts shall consist of nine, and in the county courts of six, two-thirds of whom may find a verdict.

Mr. VAN HORNE. Mr. Chairman and gentlemen of the Convention, it seems to me that we have strayed somewhat from the purpose of our amendments here in the arguments that have been made. And I take it that it is not that we are fixing a jury other than the people might demand, but that we are not leaving open to the people through their Legislature the right of fixing such a jury as they may demand, the one best fitted for the needs of the community. I think that we may safely trust the people through their Legislature to fix such juries as will secure the liberties of all the citizens, and the just consideration of all the disputes between them. For that purpose, I have introduced the amendment which I have just proposed, which leaves, as I construe it, (and I think there can be no doubt about it) the jury in criminal cases remaining as it is, twelve; the jury in civil cases in the district court until the Legislature shall order differently, consists of nine, with two-thirds necessary to find a verdict. In the county courts of six, with two-thirds necessary to find a verdict. It seems to me the question is not for consideration now, about our saying to the people what that jury shall consist of. It is a question whether we will say, "whether you want it or not, you will never be able

to change this jury system without amending the Constitution." If that is our purpose, if we are so certain of the fact, that people are wedded to the idea of twelve in criminal cases or in civil cases, there can be no harm in letting it lie with the Legislature, as to whether they will make such change or not. In all things where it can be done, it seems to me that our proper province is to leave the people free to choose for themselves, and I think that this amendment does that.

Mr. HART. The idea of the gentleman from Salt Lake, in the last portion in regard to the way this matter is left to the Legislature, I think is correct. I think Mr. Evans' first substitute for No. 10 leaves the whole matter with the Legislature, and I am in favor of doing that. I would be prepared to vote upon cutting down the number of the jury in the district court either in civil or criminal cases, to nine, but we are not doing it in this manner. All we do by passing the resolution as offered by the gentleman from Weber County—one that is in print, would be to leave that matter to the Legislature. I am not in favor of tying the hands of the Legislature on a matter of that character. It is true that we have the precedent of the past from a very early age in favor of twelve jurors, and yet to my mind, there is nothing sacred to that number, there is no good reason why the limit should be fixed at that number rather than a higher or lower number. I do not think that there will be any difference in the judgment of members of this Convention as to a majority verdict in civil cases. I was also struck by the absurdity and the contradiction of a judge in a civil action, instructing the jury that they must find a certain issue according to the preponderance of the testimony, and at the same time requiring them to find that preponderance of evidence by a unanimity on their part of their verdict. In other words, it seems to me, that the best way to

arrive at the preponderance of testimony in a civil issue, would be by a preponderance, or a majority if you please, of the jury passing upon that issue. So, I think, Mr. Chairman, that there will be no difference in the minds of this Convention upon the question of a majority of some sort—two-thirds or more in civil cases, and I think we ought to leave this matter of how many the jury shall consist of to the Legislature. I do not think that the people's representatives assembled in the Legislature will abuse that privilege. I do not think that there is any necessity of limiting the number as Mr. Van Horne's motion would indicate; and my objection to the last two sections proposed by Mr. Evans, and also by Mr. Van Horne, would be, that in the first place the words, "county court" are used. Now we have not determined upon any such court, or court by any such name as that. It may be that they would decide in favor of a superior for each county with the jurisdiction that is now given to the district court. In that case the word that we might use in debating either of these sections would be contradictory, and tie us up to a certain extent, both in the name and as to the character of the report.

The CHAIRMAN. The committee on compilation would arrange that.

Mr. HART. Well, they could possibly reconcile a difference of that kind. Another thing, the matter would not be helped any by the resolution last offered by the gentleman from Weber in the point of economy, by providing that in criminal cases involving an offense lower than a felony, a jury of nine or less number than twelve should be employed, for the reason that the number of talesmen selected in the beginning of the term of court would be selected with a view to the number of jurors that would have to sit on the cases requiring the highest number of jurors. For instance, if there were a case of felony on the calendar, the jury would have to

be selected with reference to that, and cases might alternate, first a case of misdemeanor and then a case of felony. In the first you would call nine men to sit and then twelve, but you would have to have your talesmen all there to a certain extent if you would ever wish a jury composed of twelve men. I do not know whether I have made myself clear on that matter, but the point is clear to me at least; and for the reasons I have given I prefer the substitute offered by the gentleman from Weber in the first instance to any other proposition.

Mr. VAN HORNE. Mr. Chairman, I simply wish to state that the reason I drafted the substitute in the form that I did, was that I understand that as far as the labors of the judiciary committee have progressed, they have determined upon district courts and county courts, or courts that would bear that name properly. I simply call them superior courts. The members of the judiciary committee seem to have concluded that misdemeanors should be tried in the lower courts, that felony should be tried in the district courts. The objection that I had to the original substitute offered by Mr. Evans, was that it provided for a jury of any number less than twelve which would not be, in my opinion, providing for a number of twelve, and it provides also for a majority verdict in civil cases instead of concurrence of two-thirds of the jury. The system as it had been outlined by the judiciary committee, was to carry as far as they could to the Convention the idea of the jury in the district court, which would be one of general jurisdiction in civil cases, of nine, in the inferior court or county court of six, in the justice's court of three, in each case a verdict to be found by two-thirds; and it was in reply to that that I drafted the amendment.

Mr. EVANS (Weber). Mr. Chairman and gentlemen of the committee, I am pleased that the committee is consider-

ing this important question with so much patience. It is not a waste of time to calmly and deliberately consider the question and pass upon it with intelligence. It is one of the questions which will come before this Convention, not only in the item of expense, but also upon the question involving the policy of reducing the number of the time-worn jury. But there are some heresies, I take it, in the position taken upon the question of the number that a jury should contain in the trial of civil cases. My genial friend and associate from Salt Lake, Mr. Pierce, stated in his argument against the proposition of reducing the number of jurors, that he believed in standing by precedent, and not overturning a jury which has been established and which had existed from time almost immemorial. I desire to call attention to the fact, gentlemen, that the jury system was not always composed of twelve men. We go back as far into history as we can reach, and we find according to very imperfect history, that in the beginning, when civil differences existed between individuals, or when the person in the locality was charged with an offense in violation of some rule or law, that the sort of jury which tried those questions was the whole community assembled together in mass meeting, who, after consideration, determined the fact alone, first, as to what the result should be, and second, proceed to pronounce judgment. As civilization ruled and the population increased and business interests advanced, it became necessary and expedient to select a less number, and to reduce this question more to legal science. So we find in the days of Greece at the time of Pericles a jury of six thousand people were summoned upon the panel, and they were divided into lots of ten—drawn by lot, and a jury of five hundred people set upon the question of determining the guilt or innocence of individuals or civil difference which existed between

individuals. It was found later along the practice in Northern Europe that three times twelve should constitute a jury, making a jury of thirty-six. Later along that number was reduced to twelve, but it varied owing to the particular locality where the administration of justice was carried on. There was no particular number in any particular place only at particular times and under particular circumstances. Now, the gentleman says, let's follow precedents. Is it his idea that this precedent which I have mentioned should be followed, and the whole community should be gathered together as it was originally in the primitive condition of man, for the purpose of trying civil and criminal cases? If we are to adhere to these old time-worn institutions, why abolish the community as a jury, or we desire to recede from that point to our advanced condition and the great business interests surrounding us, then why not go up a step further in history and have a jury of five hundred people, and if we desire to abandon that, why not then accept thirty-six?

But a long, long time ago, a jury of twelve had been decided upon. The particular reason why a jury of twelve was instituted in civilized nations, is something that I am unable to account for. I have searched for it, and I find no particular reason. It was stated, however, by the gentleman from Summit that the twelve jurors, as I understood him, were constituted because of the existence of the Twelve Tribes. Well if that is true, it is suggested by a friend on my left, that ten of those tribes have been lost. [Laughter]. If that be any particular reason why twelve should continue then the fact that ten of the tribes have been lost, why not abolish ten of the jurors and have two? Although I would not go so far as that. I only cite these things, gentlemen, for the purpose of showing how it is that through the ages a custom grows up, and having grown up and having been

cherished by the people, it is denominated as one of the great bulwarks of liberty of the citizen, and so far as I am concerned, I believe the jury system yet to be one of the bulwarks of human freedom and liberty, which ought not, under any circumstances, to be abolished. I would not have any gentleman believe or entertain the thought that I am one of those who believe in the abolishment of the jury system. We only go to this extent. We see in the substitute that a jury of twelve shall continue inviolate in criminal cases amounting to felony. That is all the substitute means, but in cases of misdemeanor—in the inferior courts only a jury of six or of three as the case might be. The only difference, gentlemen, that this amendment makes the only innovation upon the system in the trial of civil cases in courts of general jurisdiction. The jury system is preserved; it is inviolate; the Legislature under this substitute cannot abolish it. It is beyond its power to do it. But we say that while we hold it inviolate, we are willing that the number of twelve should be reduced to nine. That is all there is in the proposition. I have yet failed to hear any reason why this reduction should not be made.

The gentleman from Salt Lake tells us that the statutes of the Territory provide for boards of arbitration. That is true—quite true, and he says that few people resort to the privilege accorded by the law. Quite true, and yet a notable case exists wherein the people of Salt Lake County, the canal companies and city were in civil litigation with the people of Utah County, claiming an overflow of their land by obstruction placed in Jordan River, and the parties exercised their good judgment and good sense by referring that complicated difficulty to three laymen who, no doubt, before the thing shall have terminated will render satisfactory judgment. Here was a case where tens of thousands of people were upon either side of the controversy. In order to avoid the trial

by jury of numerous cases and the expenses, they sought a smaller number of men. I have known this thing in many instances, and I reiterate now, as I repeated yesterday, no two gentlemen having civil differences between themselves, no neighbors having civil differences between themselves, would ever dream of selecting even nine men for the purpose of determining that difficulty. Especially would that be the case if those people having these differences were required out of their own pockets to compensate their arbitrators.

But this sacred right of trial by jury of twelve men has taught us that it is a number that should sit upon each particular case—some superstition or mystery thrown about it, some sort of halo which sanctifies it, and another thing is that the public treasury must pay the expenses of these men who are called to settle our difference. There are fifty men to-day in attendance upon the third district court in the very city where we hold this Convention. The juries are running, and usually there are a larger number than that. We usually have panels of about thirty-six for each court. It would not be an unreasonable number if to-day eighty trial jurors were in attendance upon those two courts, and in many instances we have in addition to that fifteen men sitting as a grand jury. Take the number fifty, and a fourth, we have twelve and a fraction over, \$2 a day, amounting to \$24 a day in these two juries alone, and in addition to that there is their mileage. I estimate, from some little experience that I have had in the courts with this system, that but a small innovation as this, it will save to the people of the new State at least \$70,000 per annum, or \$700,000 in a period of ten years. I think my estimation will come far under the amount which will be saved, and the future will demonstrate whether I am right or not. No, gentlemen, it is not the intention to abolish the jury. I will go a little step

further than this if I thought it were the temper of this Convention to do it. I see no reason and believe that none can be furnished, why a smaller number of jurors would not be adequate in a criminal prosecution, but I know the temper of the Convention. I have undertaken to canvass it in a spirit of unselfishness; I have consulted with a number of minds in this committee and outside of it, for the purpose when making this step in the walk of progress that no mistake should be made.

I do not believe that this committee would agree if any more radical step were taken than that proposed by the substitute. My friend from Salt Lake, Mr. Varian, fears the entrenchment upon the body politic of powerful corporations, whose tentacles might reach out and suck the life-blood of the citizen. I will guard that as carefully and as jealously as will he. I will not consent that the jury shall be abolished either in civil or criminal cases. This money power, this corporate greed, if permitted, would spawn mischief among the people, and would take away from them in many instances those inalienable and inalienable rights which are dear to every free man. But, gentlemen, this is not a step in advance which will put ourselves within the jaws of corporate power. If it were, and if I believed it to be, I should be the last man on earth to ever advocate its adoption. My whole heart, my life, my thought, have ever been with the thoughts of the gentleman upon this proposition, and I believe it is the best thought and the sentiment of the age. But permit me to say, and believe it, I am willing to predict it, if this small step be made in advance which we now propose by this substitute, the people of Utah will never retrace their steps in that direction. It will be an example which will be followed not alone by our successors, but it will be followed by other states, eventually by the nation, and long

after we are interred perhaps, it will become international. The idea in itself of the correct number of jurors is not tenable to the efficient administration of justice. I have sought to learn the reasons, gentlemen, why this particular number should be retained. The gentleman from Salt Lake, Mr. Pierce, has furnished a reason—that we want a diversity of opinion. Would we not have a diversity of opinion with nine as well as twelve? The old idea has been twelve men with a unanimity of verdict, the idea, I suppose, is to have a diversity of opinion for the purpose of arriving at a unity. I believe in retaining a jury system, and believe in selecting them from the laymen. I believe it is the bulwark of our liberties, and if any gentleman can convince me that those liberties or interests of the people will in any degree suffer, I shall at once recede from the position which I have taken. I have been schooled in this idea of twelve jurors, gentlemen, the same as many of you. History and tradition has taught it to us all. Mankind are working to give up their traditions and their education, their feelings upon any particular subject, but they do it—the world advances, and especially does this western country advance, not only in population and material wealth, but intellectually. It advances also in the science of civil liberty and of governments, and I believe this Convention will take this step in advance.

Mr. WELLS. Mr. Chairman, I move that the committee now arise and recommend to the Convention that section 10, with all the proposed amendments thereto, be referred to the committee on judiciary, with instructions to report a section which will be satisfactory to the majority of that committee as speedily as possible.

The CHAIRMAN. A motion to refer in committee of the whole is not in order.

Mr. WELLS. That the committee

recommend that that be done. I am not asking that it be done in committee.

Mr. EICHNOR. Will you withdraw that for one second?

Mr. WELLS. Yes.

The CHAIRMAN. Gentlemen, it is impossible to extend the time.

Mr. EICHNOR. I would like to ask unanimous consent to introduce another amendment.

The CHAIRMAN. By unanimous consent we cannot extend the time. The time is up.

The committee then arose and reported to the Convention, as follows:

The committee of the whole reports that they have had under consideration the preamble and bill of rights and reports progress.

The PRESIDENT. What is the further pleasure of the Convention?

Mr. THURMAN. I move we resolve ourselves into committee of the whole for the further consideration of this business until 6 o'clock.

The motion was agreed to and the Convention then resolved itself into committee of the whole, with Mr. Squires in the chair.

Mr. EICHNOR. Mr. Chairman, I would ask unanimous consent of the committee of the whole to introduce another amendment or substitute, whatever you might call it.

Mr. EVANS. I yield the floor for the motion the gentleman desires to make.

Mr. VARIAN. I object for the reason that it simply serves to confuse. We can vote on these propositions. In the event of a certain one that I have in mind, a substitute being adopted which will dispose of all, the gentleman can then have another opportunity to still further amend it, but we are getting confused; there are four now. That is the only reason.

Mr. EICHNOR. That is all right. If you object. Some day I might have an opportunity to object.

Mr. EVANS (Weber). Gentlemen, I desire to recur again just for a few

moments to the question of our disposition to adhere to the precedent. I would not do this were it not for the fact that I know it is going to be difficult to dislodge in the minds of the members of this committee the idea of a less number of jurors than twelve. If we are to follow the idea of precedent we would not to-day be enjoying that civil and religious liberty which we have. Would the Stars and Stripes be floating proudly over a Republic? Or would we be living in tribal conditions, where might may be right and where queens and monarchs issued their edicts for the control of the people. Would we have representative government at all? It seems to me, gentlemen, that in considering this question of precedent we ought to consider it in the light of reason, in the light of the age, and if the precedent cannot be disposed of or abolished retain it, but if no good reason can be given why it should not be changed, and ample and sufficient reasons given why it should be changed, then why not change it? If we want to follow precedent, we might go back into the dark ages and review the method by which testimony was secured against individuals charged with crime. And we might hitch two-dozen plowshares, place them a foot or eighteen inches apart, and require the accused to strip his feet bare and walk across from one end to the other, and if his feet were burned and tortured he was not guilty, but if he escape such punishment, then he was condemned as guilty, and was required to be punished anyway. He might be thrown into a pool of water for the purpose of determining his guilt or innocence, if he floated on the water he would be considered as guilty, if he sank and drowned he would be innocent; or we might resort to a more modern means of securing evidence, which has been practiced in more civilized nations, applying the rack or thumb-screw to the inquisition, if precedent is what we want. But, gentle-

men, I only speak of these things, for the purpose of calling your attention to what has been. The catalogue is too long to pursue it further. Let us consider our interests to-day in the light of reason, in the light of common sense and experience, and the surroundings under which we are living, and then determine in this important question what is right. I wish we could go a little further and still not destroy this bulwark between the individual and the state. Perhaps we will take a step further some other time, but, gentlemen, let us try it now. There can be no serious results following from this action. A constitution is something that is always amended by the people, difficult it is true, in many instances, and it ought to be difficult that if this system be shown to be fraught with dangers as the people say, the people are intelligent, the people are awake to their own interest, they have the right to alter or form their government and institute a new one and correct any faults which might exist by reason of their predecessors. I am honest about it, and believe it is right, or I would not advocate it. It is in the interests of economy; it is a step in advance. The law writers of the age are advocating it, intelligent thinking men are talking about it, and I should be proud of the fact if Utah just entering into the galaxy of our Union should take, or would take, the first step in this direction. I would be glad to see the example of Utah followed by other states, and let people understand that we are alive to our duties and sensible of the responsibilities which we have assumed. Thank you, gentlemen, for your attention.

Mr. SMITH. Mr. Chairman and gentlemen of the committee, I presume that there is no question in the mind of any gentleman upon this floor as to the sacredness of the institution of the jury. All of us have grown to manhood under it, and have looked back through the

history of the past and rejoiced in it. But we are confronted with the proposition at the present time of great consideration to us as a body of citizens. We seek to establish a new commonwealth. We recognize the fact that the people of the commonwealth are limited in number and limited in means; and while some of us perchance, may have views in our minds that it would be a wise thing to do away entirely with the jury system, still, I believe, that the majority here present are convinced in their own minds that the people of the proposed new State would not tolerate this proposition. Every man can readily see the immense expense attendant upon our courts at the present time if continued would render it impossible to conduct the new State and furnish the means requisite to supply the wants and means of our courts as well as the other departments of government. The purpose, as I understand it, in these proposed amendments, is not striking away or doing away with the jury system, but in making that proper provision that a wise and prudent people can exercise or permit to be exercised, the right of trial by jury, and that it shall be limited in form so that the State can properly and justly provide this requisite in government, that guards the liberties of the people, and at the same time guards them in another direction and preserves them from exorbitant taxation. I have been in favor myself of this jury system and the experiment of limiting it as far as practicable, and yet maintaining the proper dignity and respect that should be entertained for this sacred body. I realize that there are many of our people who would and have looked forward to the time when they when they can possibly come upon the jury, and secure to themselves the means to pay their taxes by serving in this capacity. But, gentlemen, we must consider possibilities within the reach of the people, and the power that shall be exercised in this

direction. While we guard their liberties in this direction, we must guard their responsibilities also in providing means requisite to furnish the supplies by which this may be rendered within their reach.

So far as I am concerned, I am in favor of limiting the number of jurymen, and when I shall cast my vote it will be that we go below the number that has been in common use in the past and seek to limit them within proper lines that justice may be done, that this institution may be maintained and the rights and liberties of the people be guarded in this respect, which I believe it will be if the number is reduced from that of the experience of the past. It seems to me any further consideration of the problem is unnecessary. I believe that every man can recognize the fact that something must be done, or it will be impossible for us to establish a commonwealth and procure the means requisite for the sustainment of it in the manner every citizen should desire to see it maintained.

Mr. EICHNOR. I think this substitute of Mr. Evans should be voted down; I think the amendments offered by Mr. Van Horne should be voted down. Now, as I was refused the privilege of introducing my amendment I have a right to use it in my argument. I shall introduce it afterwards if the amendments are voted down. The right of trial by jury shall remain inviolate; we all agree upon that part, but in civil actions the jury shall consist of nine in district courts. Now, gentlemen, what is the use to leave this to the Legislature? Let us fix the number in the Constitutional Convention. The Legislature will wrangle over it two weeks; we are losing a great deal of time, we are spending here a great deal of money in talking about this matter. Let us do something. Let us not shove this work on the Legislature but let us fix it in our bill of rights. I am in favor of fixing it right here. Fix the number in civil actions in district courts or what-

ever they may be called, at nine. The verdict in such cases to be rendered by concurrence of two-thirds of the jurors. A jury may be waived in civil actions and in misdemeanors by consent of both the parties expressed in open court.

Mr. THURMAN. Let me ask you a question. Cannot they do that without making a constitutional provision of it or making any law?

Mr. EICHNOR. Correct. But there must be some doubt in the minds of some members of the house, and I put that in as a safeguard to remove any doubt that might exist in the minds of the members—

Mr. EVANS (Weber). If you will permit me—I know that you want to get it right. The substitute which I offer provides that a jury shall be waived in civil cases, if not demanded, as the Legislature might provide. That makes a provision that unless a jury is demanded it is waived. That system is in effect now in New York, Michigan, and Tennessee, and in quite a number of other states, and I intend to speak about that. It is adopted in those states and the people are trying a vast number of cases before the courts, without resorting to the jury at all.

Mr. EICHNOR. I will read it again: "The right of trial by jury shall remain inviolate, but in civil actions the jury shall consist of nine in district courts, and in inferior courts of six, or less, as the Legislature may provide; a verdict in such cases, may be rendered by concurrence by two-thirds of the jurors. A jury may be waived in civil cases and in misdemeanors by consent of both parties, expressed in open court." That fixes it in the bill of rights. We know exactly what we have. We know exactly what we present to the people; there can be no misgivings in the minds of the people when we present the Constitution for their adoption or rejection.

"In civil actions or misdemeanors the

jury may consist of any number, less than the number fixed in this section." I think that comes right down to the root of all this argument. Let us fix it in the bill of rights and fix it such a way that a Legislature in simple aberration of the mind will not endanger the jury system. I believe we ought to show something for our work, ought to show something for the time we are consuming here. Fix it right in the bill of rights, and we know what we have and no one can take it from us. All this talk about bulwark of liberty—what will be the bulwark of liberty in in Utah? The bill of rights will be the main spring of the liberty of this State, and I hope that every amendment will be voted down, and when the time comes I shall introduce this.

Mr. BOWDLE. The bill, as amended by Mr. Van Horne, does not meet my approbation. Neither does the one that was introduced by the gentleman from Weber. There is one trouble with the amendment as I see it introduced by Mr. Evans, that is this: It provides that in offenses less than a felony a person may be tried by a jury of less than twelve; the argument that the gentleman has made against a jury of twelve is broken in my opinion by his concession that in all criminal cases it shall be twelve. If it shall be twelve in all criminal cases of felony, why, if nine is so good, if nine be such an admirable jury, or any jury less than nine be such a great institution, why does he concede that when we come to try a man for his life, it shall be twelve. The very admission is that a jury of twelve is better than nine. He admits it when he makes that argument. I claim that a man's liberty is not in jeopardy only when the doors of the penitentiary may stand before him, or when his life is at stake. His reputation might be just as sacred, or moresacred than his life. I believe that when a man is on trial for any crime he should have a fair and impar-

tial trial by a jury, as the gentleman concedes the best jury, that is a jury of twelve, and for that reason I am not in favor of that amendment. I am not in favor of a sliding jury system. I believe we ought to know what kind of a jury we are going to have. If we are going to have a jury of twelve men, let us have a jury of twelve, and not leave it to the Legislature. If we are going to have a jury of nine, let us say so, and not have a jury this year of nine, and the next Legislature that meets thinks that is not quite good enough and they make a change, saying we have a jury of twelve. We have a jury of twelve for two years. The next Legislature comes along and says that it is too much expense, let us cut it down to eight, or six, or five. People rebel against it and you keep going back, and from that one thing to the other all the time, and you do not know where you are. Gentlemen, let me ask you this question. Solve it each one for yourself; if you had grave property interests at stake would you prefer to have a jury of eight, a jury of twelve, or a jury of four? On general principles, everything else being equal, there is not a man in this house, I do not believe, even the gentleman that has argued that the jury system should be cut down, but would say I will take the largest number you give me. Why? Because he feels that in that his interests are more nearly protected than in the smaller number. He feels that the opportunities for the other side to come around and work the jury, are not so good. Therefore, I am not in favor of cutting the jury down to a smaller number.

I can see my way to vote for a jury of nine, but as I now see it, I cannot consent to vote to give it into the hands of the Legislature, to make it any number less than that. Nor, am I in favor of referring it to them to fix any number.

I say let us fix it here now and settle that matter. Why, says the gentleman, we are progressing. Yes, it has taken

five hundred years to come from a jury of twelve down to have this Convention say that a jury of nine will do. If it takes, five hundred years to come from the idea of twelve down to nine, I think we can safely fix it at nine and rest easy there for a time at least. We are not going to grow so rapidly at that ratio, that we will need to have a jury of five or six in the age of the gentleman that has just been speaking. One thing further on that same thing. It is said that it is a great saving of expense—a great saving of expense. The gentleman told us yesterday that the jury system in this Territory cost \$45,000, a saving of \$10,000 or \$11,000 a year. There are cases tried every day in the year in this Territory where the verdicts that are asked and sometimes received are far beyond that sum. The paltry expense would not be of any consideration when we come to the weighty importance of the subjects that would be before these juries. Here is another thing. When even the people grow tired of the jury system they will let you know by not trying their cases to the jury. They will let you know it by trying it to the court, and whenever the jury system begins to go out of use and lose its popularity with the people you will find that they will speak and they will speak just in that way. How many cases are there now tried to the courts that could be tried by a jury?

In a whole term you can almost count them on the fingers of your one hand. What does that mean? It means simply this, that the people have more confidence in the opinions of their fellows, with whom they are in direct touch and sympathy, than they have in the courts. The jury comes right down side by side with the litigant. They are in some sense in sympathy with the litigant, not in an unfair or undue sense, but they know more nearly his wants, they know more nearly what the justice that is at stake is. Very often a court gets this kind of an idea. He starts out a ..

little bent in one direction, and all earth and heaven cannot turn him from that bend and he goes right on in that direction. The idea of the jury is, you have twelve men there, or whatever number you decide upon. Those twelve men will look at the thing from as many different standpoints, whatever their number may be, and you will not get the prejudice either for or against that you will in one unfair man upon the bench, and you cannot say with all due deference to the courts that they are at all times fair. And that is the feeling of the people. The feeling of the people is, we cannot always trust them—as you increase the power of the court, you increase the feeling in the minds of the people. Therefore, I am in favor of fixing the jury at not less than nine, and giving the man a chance to be tried by a jury of twelve whenever he is accused of any crime in a court of record.

Mr. GOODWIN. Mr. Chairman, I will detain the committee but a moment. My heart is touched by the views I have heard expressed here on this subject. The gentleman who last spoke has informed the committee that almost all the cases in court were tried by juries. Why? If he had a case in court that he knew was a just case, he would a great deal prefer to have the judge try it; if he had a client that was a rogue and a case that was not just, he would want a jury, and would want just exactly such a jury as the laws in this country provide for. Men that never read the newspapers; if they in the box declare that they, three or four or five months before, they read an account of a thing, and they think they have an opinion, that is enough. That is, the law offers a premium on utter stupidity for jurymen. And that being so manifest, it was not the sense of the judiciary committee, including myself, and holding the views I do and have for a long time, to continue it as it was. Speaking about precedent, I read the other day,

where the Japs took a great fort of the Chinese, and they killed all the men, women and children. They were following precedent the same as their forefathers and men indulged in. And on the shores of Africa, they have a fashion in times of great drought of taking little children, little girls preferred, down, and driving stakes at the mouth of the river and tying the children to them, and let them be drowned by the tide when it comes in to propitiate the waters and get a rain, and when the missionaries tried to break it up, they, with just as much persistency and enthusiasm as my friend from Salt Lake argued, were asked that they should not interfere with the precedent. [Laughter.] There is no sacredness in the ordinary jury. The utility of the system has been, in great part, put aside. The only thing is, that a rogue can be tried by a jury of his peers.

We are told that the institution is so time-worn that no new state coming into the Union has dared (or only one or two have dared) to change the the system. Why? Simply because some gentleman has got up and assured the Convention that it would not be following the precedent, which would be dangerous. Let us set the example, and if we will put here in this bill of rights the fact that we believe a jury of nine is as good as a jury of twelve, there will never another state be admitted that won't have the same in their constitution. We are told by this gentleman, my friend from this city, that even in the constitution of New York, that has just been revised, they have left the old number. Why? In the first place, New York is a great empire in itself, exceedingly rich, and the expense of juries does not count for much in the aggregate taxes. But there is another reason; nearly every man in that convention was a politician and he had followers, and those men look on juries as a place to pay political debts. And you go to New

York, or any other large city in this country, and go to the court house and look at the men who are jurors, and you will find that they are almost entirely composed of heelers or politicians. And when they can get two dollars a day to sit on the jury, it saves the politicians paying two dollars out of their own pocket. They sit there until they get tired, waiting for a chance to get on the jury. It is said that those advocating this would, if they could, do away with the juries. Mr. Chairman, I answer frankly, that if this young State which is coming in, was financially rich and could afford to pay one gentleman as chief justice, schooled in his profession, and two associates worthy to sit with him, I would prefer it to all the juries in the world. I believe there is less corruption, I believe there is less chance for a judge who has a place that way, who has a fair salary, to be corrupt than there is of corrupting twelve or twenty-four men who sit around courthouses to get a job at two dollars a day, sitting on the jury.

Mr. ROBERTS. Mr. Chairman, I presume that a proper respect for the learning and deep understanding of this question, that gentlemen of the legal profession profess, requires that laymen should listen in silence to this discussion; and it may be looked upon as a somewhat venturesome undertaking for one who has not had the training that these gentlemen have who have spoken upon this proposition, to undertake to discuss it. But I shall take my chances in that venture, so that the gentlemen of the legal profession and my fellow laymen may understand how this question appears to a layman. I should almost be discouraged in the long delay we are having over this bill of rights, if I were not sanguine that the labor now performed is not to be lost. Because while we are carrying on this discussion under section 10 of the bill of rights, I take it that we shall not find occasion to go over this ground in

discussion when the capital committee on judiciary shall present to us their article concerning the judiciary. I would just as lief discuss these questions under the bill of rights as under the report of the judiciary committee; and we are settling in this discussion our convictions in relation to the doctrines pertaining to a trial by jury, and therefore, I think we are making progress, although we seem to be delaying in passing the section of the bill of rights. I make these remarks, Mr. Chairman, in order that the gentleman from Salt Lake on my left who proposed that this whole subject be taken from the committee now and referred to the committee on judiciary will reconsider that proposition of his, for the reason that I believe gentlemen in this committee have about arrived at the conclusion that they wish to express upon this question, and to take it now, that we are about to settle what course this committee and this Convention shall take on this jury system, I think it would be waste of time to throw it back now to the committee on judiciary when we are so near ready to settle upon it. In the interest of saving time, too, I hope that the gentleman from Salt Lake upon my right, who proposed to fix in the Constitution itself, the number of jurors without referring the matter to the Legislature, will also for the present withhold such an amendment, and let the committee come to a vote upon the principles that have been under discussion, and then by amendment fix the number, if that be the mind of the committee. I make this remark too in the interests of economizing our time. And now, sir, with these preliminary remarks, I shall pursue my venturesome course in coming to the discussion of the main question at hand. To understand the present status of this question under discussion, the amendment offered by the gentleman from Salt Lake, Mr. Varian, to the original proposition of Mr. Evans, would read as follows:

"The right of trial by jury shall remain inviolate, but the Legislature may provide for a verdict by nine or more in civil cases, and for waiving the jury in civil cases where the consent of the parties interested is given thereto in open court." So that the force of this proposition by the gentleman from Salt Lake would mean, as I understand it, a jury of twelve in all cases, but that a verdict might be rendered by nine, and that in civil cases a jury may be waived by consent of the parties interested, provided it shall be waived in open court. The proposition of Mr. Evans as it now stands is that the right of trial by jury shall remain inviolate, but the Legislature may provide a less number of jurors than twelve in prosecutions below the grade of felony. And in civil cases, a verdict in such cases may be found by a concurrence of two-thirds of the jurors, and the jury shall be waived in civil cases if not demanded, as the Legislature may provide; provided, that a jury in the district court shall not consist of less than nine, and a jury in the county court shall consist of not less than six, and a jury in the justice court shall consist of not less than three. The main difference between these propositions is, that in cases below felony the jury may consist of less than twelve.

The CHAIRMAN. Just a moment, Mr. Roberts; you have lost sight of another proposition that is before the committee; the proposition of Mr. Van Horne, of Salt Lake.

Mr. ROBERTS. That comes in as I understand it as an amendment to the amendment.

The CHAIRMAN. As a substitute for the whole.

Mr. ROBERTS. I was remarking, Mr. Chairman, that if I may judge from the course of discussion upon the floor of this committee, that substitute has not found very much favor, and if I may judge by the course of discussion I think the committee will settle upon

and choose as between the amendment to the amendment offered by the gentleman from Salt Lake and the substitute offered by the gentleman from Weber; and believing that—and by the way, I wish to cast no reflection upon the proposition made by the gentleman from Salt Lake, Mr. Van Horne—but believing that, I confine myself to a discussion of these two propositions, believing that the committee will make a choice as between those two. I, in common with gentlemen upon this floor, have learned to venerate the jury system, the origin of which seems to have been lost in the twilight of history, so completely that it cannot plainly be discerned, and long ago I learned to entertain a respect for those customs, which have been established for so long a time that the memory of man learneth not to the contrary, and I am willing to look upon them since they have survived all the struggles and vicissitudes of the past as the crystallization of the wisdom of antiquity, and, gentlemen, in view of propositions that are already foreshadowed in this committee, I have admonished myself to guard very carefully from any departure from customs, but I am not so wedded to the customs of the past, to precedents of the bygone ages, as to refuse absolutely to give them up, if a good and sufficient reason can be given why a change should exist or should be inaugurated; and I believe that in this discussion such reasons have been given, and therefore I shall vote to accept so much of an innovation upon the time-worn jury system as is proposed by the gentleman from Weber. I notice that that innovation is very slight and carefully guarded in the greater crimes of which men may be accused. I understand that the old system of jury trial is guaranteed, and only in cases below felony and in civil cases is the slight innovation proposed, with the exception of those cases that may come up in county

courts and before justices of the peace. I am not so indifferent to the saving of expense to the people of this Territory for the government we propose to give them—and while, if there is one department of the government that we propose to change, I would feel more liberally disposed than to another, it would be the judiciary system. I am willing to cut and shave every other department of the government in the matter of appropriations to sustain it. I say, I am willing to cut and shave the revenue of every other department of government more closely than this one. And, sir, I believe in contemplating any policy of economy with reference to this department of government, we ought to take into account the fact that in the new State we will abolish the fee system, so far as those fees go to the officers who charge them, and have the fees go to the coffers of the State, and pay the officers a salary for their services, a policy which will save to the people of this State. And then I would be willing in view of this to be all the more liberal to the judiciary system that we will establish. But if it can be shown, as I think it has been shown in this case, that even the expense of the jury system can be cut down to the amount of \$15,000 or \$17,000 per annum, it is an item not to be slightly passed over. And, therefore, in the interest of economy, and believing that the liberties of the people shall not be endangered by the jury system as thus put down, I shall most assuredly support the substitute that is offered by Mr. Evans, of Weber, and then after the principles contended for shall have been accepted by this committee, as I believe they will be, I am ready to join that, gentlemen, but wish to fix definitely the number of jurors in these specified cases, and complete this work which I believe can be done in a very short time.

Mr. VARIAN. Will the gentleman permit me to question?

Mr. ROBERTS. Certainly.

Mr. VARIAN. Where does he get any such figures in the reduction of expenses as \$17,000 per year, by cutting down the jury in misdemeanor cases and civil cases by three or four jurors. It seems absolutely impossible to me.

Mr. ROBERTS. In answering the gentleman's question, I must rely upon the investigations and conclusions arrived at by my friend from Weber County as I myself have made no computation, but I accept his computation upon it. I am glad the gentleman asked the question for the reason that it will enable me to point out wherein I think the system can be less expensive. There is at least, in the first place, one-fourth, if you cut down in civil cases to nine, of the expense cut off by the adoption of this system in the matter of salaries to the jury direct. But I apprehend that the saving to the people of this State will consist in this: First, in the saving of time, because I believe that nine men can more quickly unite upon a verdict than twelve men can. It is in that direction that the saving will come to the State. Then again, they are more likely to unite, there is less danger of having what the profession calls a "hung jury," I suppose, where we have nine than where we have twelve; and in the saving of time in lessening the probabilities of having juries disagree as well as in the matter of saving at least directly the salaries to the men of one-fourth of the aggregate, there will come, I am of the opinion, a considerable saving to the State, and I don't believe that the gentleman from Weber has miscalculated the amount that may be thus saved to the people.

I thank the committee for listening so patiently to the remarks of a layman on this subject.

Calls for the question.

Mr. Van Horne withdrew his proposed substitute.

The substitute offered by Mr. Evans was adopted.

The committee then arose and reported to the Convention as follows:

The committee of the whole having had under consideration the preamble and bill of rights still reports progress.

The President appointed Messrs. Hill and Adams as additional members of the committee on schedule, future amendments and miscellaneous, and Mr. Thoreson in place of Mr. Thatcher on the committee on taxation, revenue and public debt, and also on the committee on compilation and arrangement.

The Convention then at 6:20 o'clock p. m. adjourned.

TWENTIETH DAY.

SATURDAY, March 23, 1895.

The Convention was called to order at 2 o'clock p. m. by President Smith.

The roll was called by the secretary and the following named members were found in attendance:

Allen	Larson, L.
Anderson	Larson, C. P.
Barnes	Lemmon
Bowdle	Lewis
Boyer	Low, William
Brandley	Low, Peter
Button	Low, Cache
Buys	Lund
Call	Maeser
Cannon	Mackintosh
Chidester	Maloney
Christianson	Maughan
Clark	McFarland
Corfman	Morris
Crane	Moritz
Creer	Murdock, Beaver
Cushing	Nebeker
Driver	Page
Eichnor	Peters
Eldredge	Peterson, Grand
Emery	Peterson, Sanpete
Engberg	Pierce
Evans, Weber	Preston
Evans, Utah	Raleigh
Farr	Richards

Francis	Ricks
Gibbs	Roberts
Goodwin	Robertson
Green	Robinson, Kane
Hammond	Robison, Wayne
Hart	Ryan
Haynes	Sharp
Halliday	Shurtliff
Heybourne	Snow
Hill	Spencer
Howard	Squires
Hughes	Stover
Hyde	Symons
Ivins	Thatcher
James	Thompson
Johnson	Thoreson
Jolley	Thorne
Kiesel	Thurman
Keith	Van Horne
Kearns	Varian
Kerr	Wells
Kimball, Salt Lake	Whitney
Kimball, Weber	Williams
Lambert	Mr. President.

Mr. SHARP. Mr. President, I am called away and desire to be excused on Monday and Tuesday.

The request was granted.

Mr. McFARLAND. Mr. President, I would like to be excused until Monday.

The request was granted.

Prayer was offered by Lieutenant Christian Erricson, of the Salvation Army.

The committee on legislative, by request of chairman Van Horne, was excused from attendance at the session.

The journal of the nineteenth day's session was read and approved.

Presentation of petitions and memorials.

Mr. KEARNS. Mr. President, I have here a petition with 1043 signers, from the laboring men of Summit County, requesting at the hands of this Convention due consideration to underground labor.

The petition was read and referred to the committee on labor and arbitration.

Mr. ROBERTS. Mr. President, I have

a petition from a number of gentlemen of this city, and also labor unions and societies, numerous signed—from 1,000 to 1,500 names, I do not know the exact number; I ask that it be read.

The petition was read and referred to the committee on schedule, future amendments and miscellaneous.

Reports of committees.

Mr. VARIAN. Mr. President, I suggest that under the rules the report of the committee on executive should be read and under the rules will be printed. There is no use in reading it unless it is called for.

The committee on rules reported as follows:

The committee on rules herewith report and recommend that standing rule 20 be amended by striking out all after "debate" in line 7 of the printed rule.

Mr. VARIAN. I move the adoption of that, Mr. President; the purpose is to clean away the doubt and uncertainty that seems to have pervaded the minds of the Convention ever since the rules were adopted, as to the power of the committee of the whole to arise at any time. It must have been considered that that rule as it now reads, and originally read, limited the committee of the whole to such time as the Convention should previously direct. By striking all that out, you will observe that the rule will remain so that it can plainly be understood that the committee may arise at any time.

The report was adopted.

The committee on executive reported as follows:

MR. PRESIDENT:

Your committee on executive report herewith an article entitled executive, for insertion in the Constitution.

Files Nos. 21 and 31, which were referred to the committee, are herewith returned.

C. S. VARIAN,
Chairman.

The PRESIDENT. It goes on to the calendar to the committee of the whole.

The committee on schedule and future

amendments and miscellaneous reported as follows:

MR. PRESIDENT:

Your committee on schedule, future amendments and miscellaneous report that we have considered file No. 86, relating to the sale of cigarettes, and return it herewith and recommend that it be filed. Also file No. 138, relating to fish and game, and recommend that it be referred to the committee on legislative.

RICKS,
Chairman.

The report was adopted.

The committee on accounts and expenses reported as follows:

Convention Hall, March 23, 1895.

The committee on accounts and expenses beg to report as follows: There has been expended by this Convention up to and including Friday, March 22nd, 1895, \$12,342.77; leaving a balance at that time of \$17,657.23. By bills which have been handed to us we discover that officers of this Convention have incurred liabilities of which we knew nothing until such bills were presented to us.

We believe that officers of this Convention should submit to this committee an estimate of any intended expense and before incurring said expense should receive the sanction of this committee.

In order that our duty may be made plain, we desire instructions upon this point. We also desire to know from what source that committee are to obtain the funds wherewith to purchase stamps for the use of the secretary. The secretary of the Territory has not yet the appropriation. A. C. LUND,

Chairman.

Mr. CANNON. Mr. President, I move that the report be received and filed and officers be instructed in accordance with the expressed desire of this committee and that the balance of the report be not acted upon.

Mr. KERR. Mr. President, I would like to ask what the balance of the report refers to?

Mr. CANNON. The balance is an inquiry as to what they are going to do to get the funds. We don't know what we are going to do ourselves.

Mr. ELDREDGE. Let the powers that be decide that.

Mr. THORESON. Mr. President, I

would like to ask a question—if it means that when any member of this Convention is at any expense he must hand his bills to the committee for consideration by the committee?

Mr. CANNON. Answering the gentleman, I would say the committee asks that officers be instructed to not incur any indebtedness, without consulting the committee. I move that this instruction be given to all officers.

The motion was agreed to.

Introduction of ordinances and propositions for insertion in the Constitution.

Mr. BOWDLE. Mr. President, I move you that we suspend the rules and read all propositions the first and second time by their title and let them be referred to the appropriate committee.

The motion was agreed to.

Mr. GOODWIN. Here is a proposition for the establishment of the metric system. I present it by request, with a letter from a very competent man for the use of the committee. I endorse a part of it. The rest I have under consideration.

Said proposition (file No. 144), was read a first and second time and referred to the committee on manufactures and commerce.

Mr. Van Horne introduced a proposition on prohibition (file No. 143), which was read a first and second time and referred to the committee on manufactures and commerce.

Mr. KIMBALL (Salt Lake). Mr. President, there was a memorial to that effect submitted to some other committee. Why scatter it? If it goes to the committee on manufactures and commerce, the other should go to the same place.

Mr. Howard introduced a proposition (file No. 145), relative to raising revenue for certain purposes, which was read a first and second time and referred to the committee on revenue, taxation and public debt.

Mr. HOWARD. Mr. President, I

would like to say in regard to this resolution that there is a growing tendency among the people of our coming State to create indebtedness, and there is also a tendency against bonds to pay that indebtedness. This proposition is to put it into the hands of the people to vote a special tax for special purposes and for that reason, I would like it read. It is short.

Proposition was read as follows:

The property taxpayers of this State, or of any county thereof, may at special elections called for that purpose, or at any general election, by receiving at least ninety days' notice thereof, in such manner as may be provided by law, vote a property tax, not exceeding one quarter of one per cent. in addition to general taxes, on the assessed valuation of property in this State or county, wherein such election may be held for the purpose of raising revenue to pay off any just indebtedness of this State or county, or for making any reasonable improvement therein.

Mr. Howard introduced a proposition relative to the purity of water for domestic purposes (file No. 146), which was read as follows:

The Legislature shall provide by law to protect the purity of the waters of this State that are used for domestic purposes.

The proposition was read a second time by its title and referred to the committee on legislative.

Mr. Kearns introduced a proposition relating to length of day's work (file No. 147), which was read as follows:

That eight hours shall constitute a day's work on all works or undertakings carried on or aided by the State or municipal governments, and that the Legislature shall provide laws for the the health and safety of employes in factories and mines, expressly providing that eight hours' labor shall constitute a day's work in mines.

The proposition was read a second time by its title and referred to the committee on labor and arbitration.

Mr. Buys introduced a proposition relating to the manufacture, sale, and disposal of imitations of dairy products

(file No. 148), which was read a first and second time by its title and referred to the committee on schedule and future amendments and miscellaneous.

Mr. Low, of Cache, introduced a proposition relating to stock and contagious diseases (file No. 149), which was read a first and second time by its title and referred to the committee on water rights, irrigation and agriculture.

Mr. Low, of Cache, introduced a proposition relating to right of way for drainage and other purposes (file No. 150).

Mr. THURMAN. Mr. President, by consent, if it can be obtained, I would like to move that that last proposition be referred to the committee of the whole to be considered in connection with the article on preamble and bill of rights. I see it refers directly to the same subject that is treated by that.

The PRESIDENT. It will have to be done by a suspension of the rules.

Mr. THURMAN. Yes; I ask that it be read for information.

The proposition was read as follows:

When private property shall be taken for any public use a compensation shall be made therefor. When such compensation is not made to the State, it shall be ascertained by a jury of not less than three commissioners appointed by a court of record or shall be prescribed by law. Private roads may be opened in the manner to be prescribed by law, but in every case the necessity of the road and the amount of all damages to be sustained by the opening thereof shall be first determined by a jury of freeholders, and such amount, together with the expenses of the proceedings, shall be paid by the person to be benefited. General laws may be passed permitting the owners or occupants of agricultural lands to contract and maintain for the drainage thereof, necessary drains, ditches, and dikes upon the lands of others under proper restrictions and with such compensation, but no special laws shall be enacted for such purposes.

Mr. LOW (Cache). I will say for the information of the gentleman from Utah County that the subject matter contained in this proposition now sent

up refers to section 24 of the preamble and bill of rights.

Mr. PRESIDENT. Does the gentleman move to suspend the rules and have this go to the committee of the whole to be considered in connection with the preamble and declaration of rights?

Mr. THURMAN. Yes, sir.

The motion was agreed to.

Mr. Jolley introduced a proposition providing for the regulation of water (file No. 151), which was read a first and second time by its title and referred to the committee on water rights, irrigation and agriculture.

Mr. Jolley introduced a proposition for the taxation of professional men (file No. 152).

Mr. THURMAN. Mr. President, I move to lay that on the table. [Laughter.]

Mr. RICHARDS. I ask to have the proposition read for information.

The proposition was read as follows:

The Legislature may, by law, provide for the taxation of any or all professional men. [Laughter.]

Mr. LOW (Cache). I move that the proposition be referred to the committee on revenue, taxation and public debt.

Mr. GOODWIN. I move that that be referred back with a request that details and specifications be furnished.

The proposition was referred to the committee on revenue, taxation and public debt.

Mr. Raleigh introduced a proposition relative to the liquor habit (file No. 154), which was read as follows:

The Legislature shall provide for the establishment of hospitals for victims of the liquor habit, where they can be scientifically treated. It shall also provide for the organization of medical boards of examination, whose duty shall be to examine into the condition of common drunkards and decide whether or not they shall become public charges.

The proposition was read a second time by its title.

Mr. FRANCIS. Mr. President, I move that that go to the legislative committee.

The motion was agreed to.

Mr. Raleigh introduced a proposition on inebriety (file No. 155).

Mr. EICHNOR. Mr. President, I am not chairman of the committee on ordinances, but I am a member of the committee on ordinances. I think those propositions should belong to the committee on schedule and future amendments; they are dealing with the liquor traffic and prohibition, and as for one of the committee on ordinance, I am not anxious to get mixed up on the question.

The PRESIDENT. You move this be referred to the committee on schedule and future amendments and miscellaneous?

Mr. EICHNOR. Yes, sir.

Mr. ROBERTS. Mr. President, as the gentleman from Salt Lake just now remarked, all the propositions touching the question of prohibition have so far been referred to the committee on schedule and miscellaneous, but I cannot say, sir, that this is a question that touches prohibition. I am rather of the opinion that the gentleman who introduced it has concluded that there was going to be no prohibition, and was going to take care of the drunkards; and as we will have all we can do to manage the question of prohibition, I am willing, sir, that the business of looking after the victims of the supposed intemperance which shall prevail in Utah shall go to some other committee than the committee on schedule and miscellaneous. I am willing that resolution should go to any committee on earth but the committee on schedule and miscellaneous. [Laughter.]

Mr. EICHNOR. You are a member of that committee, are you not, Mr. Roberts?

Mr. ROBERTS. Yes, sir.

The proposition was referred to the

committee on schedule and future amendments and miscellaneous.

The PRESIDENT. Gentlemen, this is the last chance, as the chair understands it, for the introduction of these propositions for the Constitution. If there are any of them anywhere, bring them forward.

Mr. JAMES. Mr. President, there are two articles found in the committee on corporations, one is the forestry, and the committee has concluded that it properly belongs to the committee on water rights, irrigation and agriculture; we return that article (file No. 92). Also an article on public institutions, which we conclude does not belong to the committee on corporations, and conclude that it belongs properly to the committee on public buildings and state institutions not educational. (File No. 53.)

Mr. SQUIRES. I move that they be referred to the appropriate committees.

The motion was agreed to.

Motions and resolutions.

Mr. WELLS. I move, Mr. President, now, that we go into committee of the whole.

Mr. THURMAN. I wish you would withhold that one moment. I move that when this Convention adjourns that it adjourn until 10 o'clock Monday morning.

Mr. GOODWIN. Mr. President, the trains do not get here until 10 o'clock; especially on Monday morning. There are gentlemen from Provo and Draper and farther north and farther south. If the gentleman will make it 10:30 every one can be here.

Mr. THURMAN. I will accept that suggestion.

Mr. VARIAN. Mr. President, I understand there is to be a resolution changing the standing rule of the Convention in that particular referred to the committee on rules. I have endeavored to get a meeting of that committee, but I am satisfied its members want to ascertain the views of the chairmen and

members of the most important committees, with a view to learning how it will interfere with the work they have in hand. I think that ought to be ascertained, and we will endeavor to ascertain it during the afternoon. If the important committees are practically through, the committee on rules will report this resolution.

The PRESIDENT. The request of the gentleman is then to defer the consideration of this until later in the day?

Mr. VARIAN. I am simply making an explanation, because I take this as a spirit of criticism upon the delay of the committee on rules in reporting that. I say I have endeavored to get a meeting this morning, but was unable to do it; and also suggest that we think that we ought to consult with the chairmen of the most important committees to ascertain how far along they have gotten with the work. There is no use meeting at 10 o'clock if we are going to delay the committee work.

Mr. THURMAN. Mr. President, two or three days ago this resolution was proposed here and referred at once to the committee on rules; it seems to me that it is very important that that matter be settled. I supposed the committee would act at once, or act yesterday, at least they have not done it, and I offer this now to facilitate the business of this Convention.

We are getting along very slowly. We have not two paragraphs of the bill of rights. That is the condition we are in here, and here we are proposing to meet at 2 o'clock in the afternoon. The committees will have to meet at night, gentlemen, if we do this work. We will have to work night and day. If we set apart the forenoon for committee work, why, we will not do work at night; that is the idea, and we will be here at the rate we are going now for five years. That is the fact about it; I have figured it out.

Mr. VARIAN. Mr. President, the gentleman from Utah seems to have an

idea that he knows exactly how this whole thing ought to be done; and that everybody ought to move at his beck and call. The spirit of criticism pervading his remarks is, to say the least, uncalled for. If he will consult with his colleague from Weber County, he will ascertain that the reason the committee on rules have not considered this matter is because he failed to attend the meeting this morning. The report reached the committee on rules at six o'clock or half past five night before last. The meeting was called for this morning. On yesterday the chairman of the committee on executive was compelled to devote all his time to the business of that committee. Now, I submit, gentlemen of the Convention, if your standing committees are for such reasons as these, a delay of two days, are to be subjected to this hostile criticism and this sort of animadversion, you had better dispose of them at once and take it right into your own hands, and determine these questions without the committees. There has certainly been nothing indicated heretofore that any committee was unwilling or failed in any particular in acting as promptly as the circumstances would permit, and I submit that now, I do not know whether you are going to speed this matter by calling a meeting of this Convention for 10 o'clock every day. If your committee on legislative; on revenue and taxation; on judiciary; the two committees on corporations; your committees on apportionment—if all or any of these great committees are engaged in difficulties and are wrestling with propositions which must be settled in the committee, it is idle to talk of speeding the action of this Convention by compelling them to leave the committee rooms and come here. I simply submit that your committee on rules might have at least an opportunity to determine that question after consultation with the members of these respective committees.

Mr. THURMAN. Mr. President, I see no reason for the gentleman from Salt Lake becoming nettled over this proposition. I made no allusion whatever to him, but I did not know but what now it is necessary to say that the committee on rules might have acted a little sooner than they have acted. In fact, they have not acted at all.

Mr. VARIAN. Will the gentleman state when?

Mr. THURMAN. Yesterday or today. It was a mere proposition relating to changing the hour of the meeting of this Convention.

Mr. VARIAN. If the gentleman will pardon me, I explained that I, for one, of the committee on rules was engaged in the executive committee all yesterday morning.

Mr. THURMAN. Very well, now.

Mr. EVANS (Weber). I was engaged in the committee on taxation.

Mr. THURMAN. Permit me, Mr. President, to say, I meant no unfair allusion to the gentlemen, nor the committee; neither does this motion affect that question at all. I ask that next Monday morning we meet at 10 o'clock, or as suggested by Judge Goodwin, at 10:30; now, if the house does not want to meet then, let them vote it down. I think myself we ought to meet then and go on with the work.

Mr. JAMES. Mr. President, before you put this motion, I want to say just one word. That is this, that the committee on incorporations anticipated no such resolution as this being made and they have an appointment for a meeting at 11 o'clock on Monday morning, and it is really important that the committee should meet and go to work at that hour. Their work is not ready to report to the Convention and it will take some little time to get ready. It cannot be got ready in that time and if the committee cannot meet the work will simply have lie idle. I do not know whether other committees are in the same fix, but I offer this apology to the

Convention. This matter can not be advanced any further. As Mr. Thurman well knows, the time had been taken up on other committees and we want to settle upon a report which shall finally come into this Convention.

Mr. SQUIRES. Mr. President, I move that the resolution lie upon the table.

The ayes and noes being called for, the resolution was tabled by the following vote:

AYES—45.

Bowdle	Kearns
Brandley	Kimball, Weber
Button	Lambert
Buys	Larsen, L.
Cannon	Larsen, C. P.
Chidester	Lund
Christianson	Mackintosh
Clark	Moritz
Crane	Murdock, Beaver
Cushing	Page
Driver	Peterson, Grand
Eichnor	Peterson, Sanpete
Eldredge	Raleigh
Evans, Weber	Ryan
Evans, Utah	Sharp
Francis	Shurtliff
Gibbs	Squires
Goodwin	Symons
Green	Thompson
Haynes	Van Horne
James	Varian
Jolley	Williams.
Keith	

NOES—44.

Adams	Lewis
Anderson	Low, Peter
Barnes	Low, Cache
Boyer	Maeser
Call	Maloney
Corfman	Maughan
Creer	Nebeker
Cunningham	Peters
Emery	Preston
Engberg	Richards
Farr	Roberts
Hammond	Robertson
Halliday	Robinson, Kane
Heybourne	Robison, Wayne
Hill	Snow

Howard	Spencer
Hyde	Stover
Johnson	Thoreson
Kiesel	Thorne
Kerr	Thurman
Kimball, Salt Lake	Wells
Lemmon	Whitney.

Mr. Howard offered the following:

Resolved, that all members of the Convention absenting themselves from any regular meeting of the Convention without being excused on account of sickness, or an order of some competent court, shall be fined two dollars for each meeting he misses, to be taken out of the pay already due him.

Mr. HOWARD. I move that resolution be adopted.

Mr. BUTTON. Mr. President, I move to make it four dollars.

Mr. BARNES. Mr. President, it strikes me a little different; it should read, "excused on account of sickness."

Mr. GOODWIN. Mr. President, that is only amending it a little. It is going to be very severe if any one member is going to be fined four dollars for the absence of all the other members.

Mr. VARIAN. Mr. President, I do not see any necessity for a resolution of that kind. There may be something underlying it that would indicate there is some purpose on the part of the mover of that resolution. What reason is there now for the adoption of such a resolution? It seems to assume in advance that every member of this Convention should be under a system of discipline or tutelage. It is not usual in legislative bodies to fine them for absence, certainly not except in very extreme cases where there is some question of contempt or disposition of that kind manifested. Why should this Convention now determine in advance these questions and make a general rule that shall apply in all cases, that if a man should fail to attend the sessions of the Convention that it shall be the duty of the president to impose a fine upon him requiring the action of the Convention to do away with that?

Why shouldn't it be left as it is, subject to the disposition of the Convention if it shall find it necessary to discipline its members? It seems to me also that it would practically become a standing rule of the Convention; it ought not to be considered in this way. I move to indefinitely postpone it.

The motion of Mr. Varian was agreed to.

Mr. WELLS. Mr. President, I move that the Convention resolve itself into the committee of the whole for the consideration of the preamble and declaration of rights.

The motion was agreed to.

The Convention then resolved itself into committee of the whole for consideration of the preamble and declaration of rights, with Mr. Squires in the chair.

COMMITTEE OF THE WHOLE.

The CHAIRMAN. Gentlemen, the business before the committee will be section 11 of the preamble and declaration of rights.

The clerk read section 11 as follows:

Sec. 11. All courts shall be open and every person, for an injury done to him in his person, property, or reputation, shall have remedy by due course of law, and right of justice shall be administered without sale, denial or delay.

Mr. WHITNEY. Mr. Chairman, I move an amendment in line four of that section by striking out the words, "and right and justice," and substituting the word "which" so that it will read, "shall have remedy by due course of law, which shall be administered without sale, denial, or delay."

It is to be presumed that the law is right and just, and if it be not it must be administered anyhow, as long as it is in force and I think that it is surplusage—the word "which" would be sufficient without the other.

Mr. ANDERSON. Mr. Chairman, I will make an amendment to the amendment by adding after "delay," "and no

person shall be barred from prosecuting or defending before any tribunal in this State by himself or counsel any civil cause to which he is a party."

The CHAIRMAN. Why not pass upon this amendment of Mr. Whitney's which is a very easy thing to settle?

Mr. VAN HORNE. Mr. Chairman, I move to amend the amendment of Mr. Whitney by striking out the word "sale" and by inserting before the word "delay" the word "unnecessary."

Mr. WHITNEY. Mr. Chairman, I think my amendment should be put first because the other does not touch it.

The CHAIRMAN. There are two separate amendments to the same section. I think we ought to pass upon one of them first.

Mr. EVANS (Weber). Mr. Chairman, I am in favor of the section as it now stands; it is very usual in many of the constitutions. I don't think any of the amendments proposed ought to be made.

Mr. MALONEY. Mr. Chairman, I think the section should stand as reported by the committee. It is in nearly every constitution and declaration of rights in the country. It is a provision that has come to us with the approval of the ages. I hope it will pass just as the committee has reported it.

Mr. EICHNOR. Mr. Chairman, I am in favor of the amendment offered by Mr. Van Horne. I think the word "sale" is unnecessary. Sale indicates that judges can be bought or the court can be bought, or one of Judge Goodwin's juries can be bought. I think the words "unnecessary delay," are of great importance with regard to the courts.

The amendment offered by Mr. Van Horne was agreed to.

The amendment offered by Mr. Whitney was agreed to.

Mr. ANDERSON. Mr. Chairman, I think the amendment that I offered should prevail, because I think that this is a constitutional right that should be guaranteed to every citizen if he so

desires. At the end of the section to add—"and no person shall be barred from prosecuting or defending before any tribunal in this State by himself or counsel any civil cause to which he is a party."

Mr. VARIAN. Mr. Chairman, I call attention to the fact that by confining that to civil causes, possibly by implication it might be held to prevent his appearance in criminal cases. It is just as important and necessary to include it here.

Mr. JAMES. Mr. Chairman, another section does provide that he shall appear in criminal cases.

Mr. ANDERSON. The next section provides for criminal cases.

Mr. EICHNOR. Mr. Chairman, I am opposed to the amendment, not because I happen to be an attorney, but if every man would try that in one of the higher courts he would discover what a mistake he had made after the verdict is against him. There is a saying among lawyers that any man who pleads his own case has a fool for a client. Now, this would work no injury to any lawyer, it would work great benefit. Gentlemen, if you want legislation in the Constitution for the benefit of the laymen you are making a mistake. If you are working in the interest of lawyers it will inure to our benefit, because if a person goes into a higher court as his own lawyer he will get his case so tangled up that he will have to call in a lawyer or several to have it unraveled.

Mr. CANNON. Mr. Chairman, I favor the amendment offered by Mr. Anderson. There is nothing compulsory about this. If a man isn't a lawyer he isn't compelled to go in and present his own case, and if after a few experiments laymen find that they cannot defend their own cases there is not much danger that they will attempt it. I don't know, however, why the gentleman should be anxious that we should not give them the privilege of doing so if they want it,

Mr. EICHNOR. Mr. Cannon, I shall vote aye.

Mr. CANNON. I am glad the gentleman is convinced that aye is a proper proposition. I think that everyone should have the right to appear and defend his property as well as to defend his person.

Mr. RYAN. Mr. Chairman, is not it a fact that any layman has the same privilege or has the privilege intended to be granted already?

Mr. CREER. Not in courts of record.

Mr. CANNON. I don't know whether that is true or not, but if it be true, this would simply perpetuate that right. It would not harm anyone.

The amendment of Mr. Anderson was agreed to by the following vote on division:

Ayes, 48; noes, 33.

Section 12 was read by the clerk as follows:

Section 12. In criminal prosecutions the accused shall have the right to appear and defend in person and by counsel, to demand the nature and cause of the accusation against him, to have a copy thereof, to testify in his own behalf, to meet the witnesses against him face to face, to have compulsory process to compel the attendance of witnesses in his own behalf, to have a speedy public trial by an impartial jury of the county or district in which the offense is alleged to have been committed, and the right to appeal in all cases; and in no instance shall any accused person, before final judgment, be compelled to advance money or fees to secure the rights herein guaranteed. The accused shall not be compelled to give evidence against himself; no wife shall be compelled to testify against her husband, and no husband against his wife, nor shall any person be twice put in jeopardy for the same offense.

Mr. VAN HORNE. Mr. Chairman, I move to insert after the words "face to face" the following: "Except where evidence by deposition may be authorized by law."

Mr. Evans, of Weber, proposed to amend the section by striking out the following words, "and in no instance shall any accused person before final

judgment be compelled to advance money or fees to secure the rights herein guaranteed."

The CHAIRMAN. There is no conflict between those two amendments, gentlemen.

Mr. EVANS (Weber). At the proper time I would like to make a remark about that.

The CHAIRMAN. Gentlemen, we will consider the amendment of Mr. Van Horne, of Salt Lake.

Mr. WHITNEY. Mr. Chairman, I wish to offer an amendment, which may be deemed an amendment to Mr. Van Horne's amendment. I wish to move in lines 5 and 6 to substitute for the phrase, "to meet the witnesses against him face to face," the words, "to be confronted by the witnesses against him."

Mr. VAN HORNE. I have no objection to that.

The CHAIRMAN. That will not conflict with Mr. Van Horne's amendment at all, because his follows the words, "face to face."

Mr. ANDERSON. Mr. Chairman, I hope this amendment will not prevail. I think it strikes out one of the greatest safeguards that there is to a citizen. Now if a person or a witness had the opportunity of having his deposition taken in some far off county, or some far off state, why a witness under these conditions is likely to testify to anything. I think that the accused should have the right of having the witness confront him and then the jury can tell whether he is telling the truth or not. I think that if we would authorize the taking of depositions, it would take away one of the greatest safeguards that there is that is guaranteed by our Constitution; therefore, I oppose it and hope it will not pass.

Mr. CHIDESTER. Mr. Chairman, I am also opposed to the amendment as offered for the reason that if I have a proper understanding of it, it will permit prosecutions, or the Legislature to

authorize the prosecution in criminal cases to take depositions of witnesses who are not present, who may be absent in some other state or absent in some other county, and if that loophole was thrown open, I do not see that there would be any safety for any man to have a trial and have a fair defense. I do not believe that a man could have a fair defense unless his witnesses were compelled to be in attendance where he could have the chance to cross-examine. It might be argued that he would have a chance to propound questions and in that way get his testimony from these witnesses, but if I understand it, this proposes now to make that compulsory, and I do not think that it should be so. I think that the witnesses should be compelled to be in court and there testify before him, that he should have the right to confront them and to cross-examine them, and there would be many men who would not be able to go through this process of having the depositions taken in some other country. They might not have means and they might not have any friends, yet they would be entitled to a fair trial and in my opinion the only way to have a fair trial is to have the witnesses face to face with the defendant and allow him to have a chance to cross-examine.

Mr. Spencer was, by request, excused from further attendance at the session.

Mr. VARIAN. Mr. Chairman, it seems to me this amendment is getting on very dangerous grounds. The provisions of this section are substantially those in every constitution, I believe. They have received judicial interpretation and construction for many years, as I understand it, this, so far as the particular matter is concerned, has received construction. Where a preliminary examination has been held of a man charged with a serious offense—I mean a grand jury offense, calling for a trial in a court of record, and the witnesses shall have been examined face to

face, in the language of this article, with the defendant, and the testimony has been taken down and he has had an opportunity of cross-examination and it has been read over and corrected with such other safeguards as may be imposed by legislation—in such a case, when the trial shall come on, if one be dead, and the witness shall be dead or has gone beyond reach of the process of the state, the courts have held that under such circumstances the constitutional guarantee has been complied with, and the deposition may be read. They have gone no further. Nowhere I believe is it held or permitted that the state may take a deposition of a witness in the sense used by the gentleman in the discussion here.

That is sending abroad to another territory and taking a deposition in a criminal case for the prosecution. Now, it is proposed to interpolate something new here involving something that puts us all at sea; again, requiring, as of necessity it will, other judicial construction, and interpretation particularly as it is framed. I quite agree with the gentleman from Sevier that the language will certainly carry the understanding that it was intended by this Constitution to give the State the right to take the deposition of the kind he has alluded to. So far as the other depositions are concerned, the constitutional guarantee is complied with in the class of cases I have mentioned, because the defendant has met the witnesses face to face. He has had the opportunity of cross-examination, and it is only because of the extreme necessity of the case that the deposition is allowed to be read. Such has been the interpretation of the courts, but as I remember the amendment, it is to insert "Except where deposition shall be authorized by law." Clearly that would indicate an authority in the Legislature to authorize the taking of other depositions and certainly we do not intend to do that. Why not leave it as

it is? Why not leave it within the ancient landmarks, so that every lawyer and every layman may know just what this does mean? Judicial decision after decision, all in one line, particularly have determined the meaning of this language as the committee have reported it here. Why should we stray away and put something in there that will tend to bring about and will doubtless bring about this confusion and conflict in interpretation?

The motion was rejected.

The CHAIRMAN. The question comes on the amendment offered by Mr. Evans, of Weber.

Mr. EVANS (Weber). Mr. Chairman and gentlemen of the committee, I desire to explain the reason why I should like to have that language stricken out. I have no other objection to the section. I fully agree with the vote just taken, that the matter should not have been inserted which was proposed by the gentleman from Salt Lake; these are ancient landmarks and should not be disturbed, because they go directly to the protection of the individual liberty and protection of the citizen, but we cannot go too far in the interest of the men charged with crime. We give, by this section, the right to the accused to defend in person or by counsel. We give him the right to demand the cause of the accusation against him and to have a copy of it. We give him the right to meet his witnesses face to face. We give him compulsory process to compel the attendance of witnesses. We give him the right of a speedy and public trial by an impartial jury of the county or the district, and we also give him the right of appeal. Now, for all these purposes and all these rights which we vouch to the person charged with crime, we say in the section as it now stands, "And in no instance shall any accused person, before final judgment, be compelled to advance money or fees to secure the rights herein guaranteed."

That is to say, that if a person be charged with crime, who is worth a million dollars, he has the right to be defended by counsel at the expense of the State. He could not be required to advance one dollar for the employment of an attorney, but under this section, as it now stands, the millionaire charged with crime could demand of the State the right to have counsel appointed to defend him.

Mr. GOODWIN. May I ask you a question?

Mr. EVANS (Weber). You may.

Mr. GOODWIN. Would not the counsel so appointed be sure to hang the man and wouldn't it be all right?

Mr. ELDREDGE. Mr. Evans, may I ask you a question? What about the poor fellow that has no money?

Mr. EVANS (Weber). That is usually provided by the Legislature. We have such provision now. Every state has such provision and I believe that was the intention of this language; I think the committee intended that when it inserted that. I do not believe it gathered fully the meaning and force of the language. It is a very unusual thing in constitutions, but a very usual thing in the statutory laws.

Mr. VARIAN. I would ask the gentleman if it would not accomplish the purpose to insert the words "to officers," after the words fees, so that it should remain that he would not be compelled to advance fees to the officers of the court for the sake of getting justice done?

Mr. EVANS (Weber). That is all right and the statutes usually provide for that. I do not believe a man ought to be compelled to pay fees for a clerk when he comes to secure his subpoena. I think that is one of the rights which ought to be accorded the defendant, and and I believe all these rights named here ought to be accorded except the right which I have named. It goes entirely too far. It simply leaves an avenue open by which the person charged with

crime may reach his hands into the public treasury and take from it large sums of money for his defense when it is unnecessary that it should be done—when he himself is able to pay it. Now, when a person charged with a crime is unable to secure counsel, it is according to the spirit and genius of our institutions that he should have one; by striking out this language he would not be deprived of that right. Legislatures have always provided for it, but to make it constitutional, then it would be incumbent upon the part of the Legislature—the language itself is mandatory—to do these things. That is, that the defendant shall not be compelled to advance one dollar until judgment has been pronounced. Then if the defendant happened to be convicted, the State might make a law by which judgment might follow as of course for costs, and the treasury might be reimbursed; but if he should happen to be acquitted, there would be no opportunity at all to reimburse the State, because no judgment for costs would follow. I think the language ought to go in its entirety or else be amended in such a way as the gentleman from Salt Lake, Mr. Varian, suggests.

Mr. VARIAN. Mr. Chairman, I desire to offer an amendment to the amendment, to strike out the language contained in Mr. Evans' amendment, and insert the following in lieu thereof: it would commence after "cases," in line 12, and end with a period in line 15 after the word "guaranteed," "and in no instance shall any accused person be compelled to pay the expenses of his prosecution to secure the rights herein guaranteed." I purposely leave out, "before final judgment."

Mr. EVANS (Weber). Wouldn't that include fines?

Mr. VARIAN. I will allude to that in a moment. I purposely leave out the words "before final judgment," because in my opinion the costs of an appeal or a new trial ought not to be

exacted from a man charged with crime. As matters stand to-day here in this Territory, if a man wants a writ of habeas corpus, he has to pay for it under the rules of the court. It is exacted from him; I think it is five dollars, I am not quite sure about that, but he has to pay for the suing out of a writ of habeas corpus—that writ of right. On appeals from justices' courts, where there is, perhaps, more likelihood of injustice being done, through inadvertance and ignorance, than in courts of record, he has to pay for his appeal; when he gets up to the district court he has to put up five dollars more within a time specified or his appeal is dismissed. If he demands a change of venue in the justice's court, he has to pay for it. That is the way they administer the law. Although I don't believe it is the law, but it is so administered. He has to pay frequently, perhaps, for a jury. Therefore, I would eliminate so far as my judgment goes, the words, "before final judgment." Now, coming to the suggestion of the gentleman from Weber, Mr. Evans, I do not think the language I offer would bear the construction suggested. I don't believe it covers the fines with the attendant imposition of costs provided generally by law after the conviction. The language is "to secure the rights herein guaranteed."

Mr. THURMAN. Will you read that as you have it amended?

Mr. VARIAN. "And in no instance shall any accused person be compelled to pay the expenses of his prosecution to secure the rights herein guaranteed." That is to secure the trial by jury, to secure the being confronted with the witnesses—in other words, to secure a fair and impartial trial or to secure an appeal provided for. After he has exhausted his remedy, after these rights provided for in this section and guaranteed also have been secured for him, that is another question. I believe the Legislature would have power then to

impose punishment by way of fines, and add to it also an imposition of the costs by way of fines. But the object and purpose of this is to permit a man to have these rights that are secured to him by the Constitution of some avail. It is of no effect or avail to tell a man who has not a dollar, "You can appeal if you want to, but you must put up ten dollars for these costs and when you get to the other court you have got to pay the clerk so much. If this court has no jurisdiction, you can have your writ of habeas corpus, but you must pay so much for it." His answer is, "I haven't it," and so it ends. I would like to see the language changed, and the reason I offer to strike it all out is because I cannot reach it in any other way because of Mr. Evans' motion. I cannot move to strike out the words, before final judgment, and I also desire to meet the suggestion he makes. I would like to see language equivalent to this incorporated in this article.

Mr. EVANS (Weber). I just want to ask Mr. Varian a question or two. Have you studied your amendment carefully, Mr. Varian? I think it has not remedied the difficulty if I read it right. It simply leaves out the words, "before final judgment?"

Mr. VARIAN. Yes.

Mr. EVANS (Weber). And inserts the word "expenses." Would not that include his expenses for witnesses and counsel and such things as that? I would like to make this suggestion, Mr. Varian, and see how you like it. Follow section 12, now, with me, and I will read it and see if I bring it within your idea,—"And in no instance shall any accused person before final judgment be compelled to advance money or fees to the officers of the State to secure the rights herein guaranteed."

Mr. VARIAN. That would be very satisfactory to me, if you would leave out, "before final judgment." I have no

objection to the way you put it. It is, I believe, equivalent to my idea.

Mr. EVANS (Weber). I will leave that out; I intended to do it.

Mr. VARIAN. If you will draft that amendment and withdraw this, I will withdraw mine.

Mr. EVANS (Weber). Then, Mr. Chairman, I propose after the word fees to strike out the words "before final judgment."

The CHAIRMAN. Do I understand these other two propositions are withdrawn then?

Mr. EVANS (Weber). Withdraw both of them.

Mr. VARIAN. Withdraw both of them, if there is no objection.

Mr. EVANS (Weber). In line 13 strike out the words "before final judgment," and after the word "fees," in line 14, insert, "to the officers of the State."

Mr. VARIAN. I second that amendment.

Mr. VAN HORNE. I would suggest, "any officer of the State."

Mr. EVANS (Weber). "Officers of the State," seems to cover it completely. That would cut off then all the objection that there has been made to it.

Mr. MALONEY. Mr. Chairman, both of those amendments I think should be rejected. I don't think from their language, either one of them will better the section. The committee on preamble and declaration of rights knew what they were doing when they made the report. They were fifteen good men—men who knew their business and this article now is copied word for word from the declaration of rights of the state of Washington.

I call the gentlemen's attention to the latter part of the section of the declaration of rights of the state of Washington, "and in no instance shall any accused person, before final judgment, be compelled to advance money or fees to secure the rights herein guaranteed." Now, the object of that was and the idea was to prevent

poor men who were convicted in the superior court, the right to appeal. Mr. Varian says they can appeal; the court says, "All right, but before you appeal, you must put up your money." I have known cases in this Territory where a defendant was convicted and had to pay seven hundred dollars for reporter's fees. As it happened he had the money. In a great many instances they have not the money at all to advance. Why, the idea that the gentleman from Weber advances that this would screen the man from paying his attorney is simply ridiculous; the committee never dreamed of such an idea as that.

I do not want to take up your time, gentlemen; I hope both these amendments will be voted down and that we will sustain the committee's report. It comes from Washington and other states, which have this same language in their declaration of rights.

Mr. VARIAN. What is the object of putting in "before final judgment" there? Would not that by implication shut a man off if he is convicted in the district court from the operation of this clause if he desires to appeal to the supreme court?

Mr. MALONEY. It is not then a final judgment. He is not required to advance money to officers for service, nor money to the reporter for translating his shorthand notes, but, if, after final judgment in the supreme court he is convicted, then he must.

Mr. VARIAN. That is the question that I differ with the committee on. That is the way I understand it, if the Convention want to put it that way, that is all right. I understand it. I want the word stricken out as far as I am concerned.

Mr. MALONEY. The idea is, this committee reported exactly that which they thought we ought to have as a declaration of rights.

Mr. Hyde, by his request, was excused.

Mr. VAN HORNE. Mr. Chairman, I

would suggest that if there is any doubt what "final judgment" means, by inserting the words, "in a court of last resort," after the word judgments, it would cover the whole thing.

Mr. VARIAN. There are two questions involved here. I would ask the chair to submit to the Convention, first striking out the words, "before final judgment."

The CHAIRMAN. Gentlemen, the question is on the motion to strike out the words, "before final judgment," from this section.

The question was taken and on a division there were ayes, 34; noes, 39, so the amendment was rejected.

Mr. VARIAN. Mr. Chairman, of course I cannot tell from this vote what the sense of the Convention is concerning the other proposition, which has been withdrawn, and it is in that view that I shall re-offer it. I move to strike out that language, commencing at the word "cases," in line 12, and ending with the word "guaranteed," in line 15, and insert, "and in no instance shall any accused person be compelled to pay the expenses of his prosecution to procure the rights herein guaranteed."

The question being taken on the amendment, it was rejected.

Mr. Whitney offered the following amendment: In line 5 and 6 in lieu of the words, "to meet the witnesses against him face to face," insert "to be confronted by the witnesses against him."

Mr. WELLS. Mr. Chairman, I move to amend the amendment, to make the word "by" read "with" in conformity to the Constitution of the United States, "to be confronted with the witnesses against him."

Mr. WHITNEY. I don't see that it improves it. The question being taken on the motion of Mr. Wells, the amendment was rejected.

The amendment of Mr. Whitney was agreed to.

Mr. Van Horne offered the following amendment: Insert after the word,

"committed," in line 12, the words "unless the venue be changed for cause as may be provided by law."

Mr. VAN HORNE. Mr. Chairman, the reason for my proposed amendment in that case was that I had known of cases where the constitution had a similar provision to this and one in addition, that after three terms of court, and without a trial being had, a man was discharged because the sentiment was so strong on the case that they couldn't find an impartial jury in the county or district, in which the offense was alleged to have been committed, and under that kind of law the criminal went free. I don't think there could be any possible harm in it. It simply provides by enactment here that the Legislature may in certain cases provide for a change of venue.

Mr. THURMAN. Mr. Chairman, I don't understand that is necessary in the Constitution. We are speaking here of rights that the accused party has. He has a right of trial in the district and he should have it if he wants it. The cases of change of venue are cases where he may be entitled to that as provided by law. I don't think that it has a proper effect in a bill of rights, and for that reason I am opposed to it.

The question being taken on the motion of Mr. Van Horne, the amendment was rejected.

Mr. Low, of Cache, was, by his request, excused.

Mr. ANDERSON. Mr. Chairman, I would offer the following amendment, after the word "behalf," in line 8, "produce all proofs that may be favorable to him." The reason I present this amendment is as an additional protection to a citizen, as I have read a number of instances where innocent persons have suffered and been convicted for the reason that they were not allowed to bring proofs that were favorable to themselves and could have cleared them, on account of some technicality of the

court or an error in presenting the case to the court.

The amendment was rejected.

Mr. Kimball, of Weber, was, by his request, excused.

Mr. BOYER. Mr. Chairman, in order to avoid the great expense that is now attached to the Territory of Utah in furnishing witnesses to the accused party to the very great number that are oftentimes brought into court for the purpose of accumulating or bringing into court evidence which very often is cumulative, I desire a provision in this same section we have been talking upon, to substitute in line 14 and after the word fees, the words, "other than as provided by law." Now, the object of this amendment is to have the Legislature provide in some manner whereby there may be some protection to the State as to the procuring of so many witnesses that oftentimes are imposed upon the community in furnishing the witnesses for the accused party. They may make provision then that by proper affidavit and upon proper presentation witnesses may be furnished and also that they may not be of such a cumulative character as oftentimes have been imposed upon the courts and the taxed community to pay for. I think that amendment will overcome the objections of Mr. Evans, from Weber, as mentioned here on this particular score. I believe that will cover the objection that I have to this section, as it now stands. It is in the interest of economy.

Mr. VARIAN. I would like to ask if that does not neutralize the entire matter that we have been discussing?

The amendment of Mr. Boyer was rejected.

Messrs. Williams and Francis were, by their request, excused.

Mr. HILL. Mr. Chairman, I move that the committee rise and report progress.

Mr. VARIAN. If the gentlemen will cast their eyes over the house they will see that nearly one-half are gone. Gen-

tlements who live out of town want to go and have gone.

The motion of Mr. Hill was rejected.

Section 13 of the preamble and declaration of rights was then read as follows:

Section 13. Offenses heretofore required to be prosecuted by indictments shall be prosecuted by information, after examination and commitment by a magistrate, or by indictment, with or without such examination or with commitment. The grand jury may consist of any number of members, of not less than five nor more than fifteen, as the judge of the court may order. A grand jury may be drawn and summoned whenever in the opinion of the judge of the district, public interest demands one.

Mr. WELLS. Mr. Chairman, I only wish to say before the committee begin firing at this section that it is almost the same as in the states of Michigan, Wisconsin, Washington, Colorado and California, and in all those states I am informed that this system has worked extremely well.

Mr. Bowdle offered the following as a substitute for section 13:

No person shall be held to answer in a criminal case except on information after examination and commitment by a magistrate or on an indictment with or without examination and commitment. The grand jury shall consist of seven members and shall be drawn and summoned only when in the opinion of the judge of the district, public interest demands one.

Mr. EVANS (Weber). I think the only difference is in the number of grand jurors.

Mr. BOWDLE. Practically that is true. The only objection that I have to the first part of the section is "offenses heretofore required to be prosecuted by indictment," that is taken from the California revised or new constitution, and undoubtedly they had in mind their old constitution. Now, we have no organic existence as a State until this Constitution is adopted and we are admitted, and we are not looking back to a time when, as a state, we were

prosecuting crimes in a different way, and it seems to me that it is preferable in that respect. It does not change the substance a particle, but it reads here, "offenses heretofore required to be prosecuted by indictment." Heretofore prosecuted where? Not in the State of Utah.

Mr. EICHNOR. In the Territory.

Mr. BOWDLE. That is the only point I have. The other is that it fixes the number of grand jurors at seven. I think that we ought to fix the number of grand jurors. The original section is from five to fifteen, leaving it in the breast of the court to say what the number shall be. I think it is giving him sufficient power when we allow him to say when it shall be called, and we will say how many the jury shall consist of.

Mr. MALONEY. Mr. Chairman, the provision as contained here is in the constitution of the state of Washington. They meant under the territorial system. Section 25 of the Washington constitution provided that offenses heretofore required to be prosecuted by indictment, and so on—so that the committee is right and this ought to be adopted as it is.

Mr. CREER. Mr. Chairman, the only objection I have to this section is that it provides that all criminal cases be required to be prosecuted by indictment. There are criminal cases below felonies where they were not required to be prosecuted by indictment, and I think the language as it is now is better, "offenses heretofore required to be prosecuted by indictment," showing there are some offenses heretofore not required to be prosecuted by indictment, and I prefer the section as it is now to the substitute offered to that by the gentleman. I am free to admit, however, that the juries should be fixed at seven.

Mr. EICHNOR. Mr. Chairman, is Mr. Evans' amendment before the house?

The CHAIRMAN. No, sir.

Mr. EICHNOR. Well, I am opposed to the substitute the way it stands at present.

The substitute offered by Mr. Bowdle was rejected.

Mr. EVANS (Weber). Mr. Chairman, I desire to submit an amendment and move its adoption. I will state it very briefly; it is only a change in a word. Under the section as it now stands, before the prosecution could be had by information, there would have to be an examination and a commitment. I think if the defendant waives an examination that the State or the county ought not to be compelled to hold the examination before an information can be filed and my amendment simply reaches that point; also that if the defendant waives an examination, he is then committed and an information can be filed. The amendment I offer is as follows: Amend section 13 in line 3, between the words "examination and" by inserting the words, "unless waived," so that the first sentence of said section will read as follows: "Offenses heretofore required to be prosecuted by indictment shall be prosecuted by information after examination, unless waived, and commitment by a magistrate, by indictment with or without such examination and commitment." -

Mr. VARIAN. Mr. Chairman, I trust that amendment will not prevail. There are many times when the defendant is very ready to waive examination. He does not want the examination to be had. He is willing to go right before the grand jury. He is willing to take his chances on the witnesses dying, being scattered, and getting out of the Territory; there are many times when the prosecutor in the interest of the State, feels it his duty to examine the evidence and have it opened up. This makes it one-sided. If the defendant chooses to waive it, no matter what the interests of the State might be, the examination could not be

had. Why not leave that to the law? As the law stands, with this clause in it, if he waives the examination and the State consented it would not necessarily follow that the State would have to examine the witnesses. I believe that you can waive that right.

Mr. EVANS (Weber). Doesn't it under this provision, now require examination and commitment?

Mr. VARIAN. Possibly so.

Mr. EVANS (Weber). I just simply want to say that a case was recently decided in Idaho where there was a waiver and the person was proceeded against by information and the supreme court discharged him because the commitment was improper.

Mr. VARIAN. I am free to admit, that upon your suggestion, it occurs to me now that that would be so, but still I am not willing—I shall not be, as one at least, to put this power in the hands of the defendant.

Mr. EVANS (Weber). I don't intend to put any power in his hands. The State can do it. But it is not required; it can examine if it wants to.

Mr. VARIAN. If the amendment included, "with the consent of the State," it would obviate my objection.

Mr. THURMAN. I was going to suggest to add to the words proposed by the gentleman from Weber, "and also by both parties."

Mr. VARIAN. I suggest that the gentleman just add "with the consent of the State," it will be much more concise and will be better worded.

Mr. THURMAN. It is the best thing.

Mr. VARIAN. Does the gentleman make that as an amendment?

Mr. EVANS (Weber). I offer that as an amendment.

Mr. THURMAN. I second it.

Mr. VAN HORNE. Mr. Chairman, it strikes me the same object would be had by striking out the words, "examination and" and just put in the words, "commitment by magistrate."

Mr. EVANS (Weber). The magistrate

might refuse to give an examination, then.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Weber as amended.

Mr. THURMAN. "Unless waived by the accused with the consent of the State."

Mr. WHITNEY. It is proposed to put all that between "examination" and "and?"

Mr. VARIAN. No; after "commitment."

Mr. EVANS (Weber). Let it go after the word "magistrate."

Mr. THURMAN. You will have to add to the word, "magistrate," "unless examination is waived by the accused with the consent of the State."

The CHAIRMAN. The article as proposed to be amended would read as follows:

Offenses heretofore required to be prosecuted by an indictment shall be prosecuted by information after examination and commitment by a magistrate, unless the examination be waived by the accused with the consent of the State.

Mr. VAN HORNE. What is the rest of the amendment?

Mr. VARIAN. That is all.

Mr. BUYS. Mr. Chairman, it seems to me that this would waive the commitment which I don't think we wish to waive. It seems to me it should be after "information" or the words "unless the examination be waived," as suggested by the gentleman from Utah.

Mr. WELLS. Mr. Chairman, I would like to ask some of these legal gentlemen a question, whether or not, if an examination is waived, is it not the same as an examination? Why these words are necessary at all?

Mr. EVANS (Weber). This, as it now stands, requires an examination. If there wasn't an examination it would be error to take proceedings against the accused by information.

The amendment was agreed to.

Mr. EICHNOR. Mr. Chairman, I move to amend section 13 by striking out, after the word "commitment" and insert in lieu thereof, "the grand jury shall consist of seven persons, of whom five must concur on indictment, but no grand jury shall be drawn and examined unless in the opinion of the judge of the district, public interest demands one."

The amendment was agreed to.

On motion of Mr. Evans, of Weber, the committee arose.

The committee then arose and reported to the Convention as follows:

Your committee of the whole, after examining and carefully considering the preamble and bill of rights, report progress.

The Convention then at 4:43 p. m. adjourned.

TWENTY-SECOND DAY.

MONDAY, March 25, 1895.

The Convention was called to order at 2 p. m. by President Smith.

The roll was called and the following named members were found in attendance:

Adams	Kimball, Weber
Allen	Larsen, C. P.
Anderson	Lemmon
Barnes	Lewis
Bowdle	Low, Wm.
Boyer	Low, Peter
Brandley	Low, Cache
Button	Lund
Buys	Maeser
Call	Mackintosh
Cannon	Maloney
Chidester	Maughan
Christianson	McFarland
Clark	Morris
Coray	Moritz
Creer	Murdock, Beaver
Cunningham	Murdock, Summit
Cushing	Nebeker
Driver	Page

Eichnor	Partridge
Emery	Peters
Engberg	Peterson, Grand
Evans, Weber	Peterson, Sanpete
Evans, Utah	Preston
Farr	Raleigh
Francis	Richards
Gibbs	Ricks
Goodwin	Robertson
Green	Robinson, Kane
Hammond	Robison, Wayne
Hart	Snow
Haynes	Squires
Halliday	Stover
Heybourne	Strevel
Howard	Symons
Hughes	Thurman
Hyde	Van Horne
Ivins	Varian
James	Warrum
Johnson	Wells
Jolley	Whitney
Keith	Williams
Kearns	Mr. President.

Kimball, Salt Lake

Prayer was offered by Rev. S. J. Adams, Baptist district missionary for Utah.

The journal of the twentieth day's session was read and approved.

Mr. Boyer presented a petition, signed by Frank C. Leonard and twenty others of the Christian Endeavor Society, of Springville, Utah County, for prohibition (file No. 156).

Referred to committee on schedule and future amendments and miscellaneous.

Mr. Morris presented a petition from Edwin Dalton and 102 others, citizens of Parowan, asking that the question of prohibition be submitted to the people (file No. 157).

Referred to committee on schedule and future amendments and miscellaneous.

The committee on rules reported as follows:

MR. PRESIDENT:

The committee on rules, to which was referred resolution (not numbered) relating to morning sessions, herewith report the same, with the recommendation that standing rule 1 be amended by

striking out "2 o'clock p. m." on third line thereof, and inserting "10 o'clock a. m."

VARIAN,
Acting Chairman.

Mr. THURMAN. Mr. President, I move that the rules be suspended and that the standing rule be amended in accordance with the report.

Mr. STREVELL. I move to amend by making it 10:30 instead of 10.

The amendment was rejected.

The motion was agreed to.

The committee on ordinances and federal relations reported as follows:

MR. PRESIDENT:

Your committee on ordinances and federal relations respectfully submit for your consideration their joint report of the accompanying draft of an ordinance, on compact, and recommend its adoption. We also report back the following propositions referred to us:

File No. 118, by Mr. Maloney, of Weber.

File No. 153, by Mr. Raleigh, of Salt Lake.

With recommendation that the latter be referred to the committee on schedule, future amendments and miscellaneous.

HEYBOURNE,

Chairman committee on ordinance.

PAGE,

Chairman committee on federal relations.

The PRESIDENT. Under the rule it goes to the printers and will be put on the calendar of the committee of the whole.

Motions and resolutions.

Mr. CHIDESTER. Mr. President, I desire to make a motion, and as a preface to this motion, I wish to say that the object of the motion is to secure a speedy action upon the election bill. By a speedy action, I mean that it may not be delayed by the act of the minority, who have informed the Convention that they wished to make a report the other day. I believe that it is the object of some who do not favor this bill to delay it and for that reason the minority have not made any report. Of course, I may be mistaken on this, but the circumstances go to prove to me that this is the case. Therefore, I move you that the rules be suspended and

that we make the election bill a special order of the day, Wednesday, after the regular order.

Mr. HART. I second the motion.

Mr. ROBERTS. Mr. President, I believe that the gentleman from Weber, Mr. Kiesel, who desired to make that minority report, is not present. I do not know whether any of the other members of the minority are here or not, but I have observed by the calendar there, of the committee of the whole, that the elections and rights of suffrage has the sixth place, and for the life of me I cannot understand what haste there is over the report of the election bill, any more than the legislative, or any other part of the Constitution that is to come upon the floor of this Convention, and I protest against the assigning of improper motives to gentlemen in their work in regard to asking for a delay of this matter. As there is very much to consider, very many files on this committee of the whole calendar, I can see no reason why gentlemen are in such an all-fired hurry in this matter. If I were as cock-sure of my position in relation to this as the gentlemen of the majority profess to be, I would not be afraid of a little delay, even if that was the motive that was prompting the action of the minority on this subject, and I can see no reason why the rule should be suspended and this matter hastened. I will vote against the proposition.

Mr. CANNON. Mr. President, I am in favor of the motion to suspend the rules for the reason that I believe that it is time this minority of the committee should report. They have had abundant time. I opposed the other day the making of this article a special order for the reason that I wanted them to have time in which to prepare their report and present it to the Convention. That has not been done and there seems to me to be a disposition to leave this matter open, for the secretary of this committee reported to us that the

section upon which there will be a minority report was considered weeks ago, and that at that time the minority knew what the action of the majority would be. I favor making this a special order in order that this committee, or this minority, may present their report.

Mr. ROBERTS. Will the gentleman permit me a question?

Mr. CANNON. Certainly.

Mr. ROBERTS. Will you tell me what reason there is for hurrying this matter when it has already an early number on the calendar.

Mr. CANNON. The committee having this matter in hand have requested that the matter be taken up and set by a special committee, and I think that they have the conduct of that affair and they may have their own reasons. I know not what they may be but I am in favor of bringing it up at that time, in order that there may not be unnecessary delay on the part of the minority.

The PRESIDENT. I will say to the Convention that Mr. Kiesel has been called away and may probably be back here to-morrow, so I have been informed.

Mr. BUTTON. I want to ask if this minority report does not come in, if this will be delayed on account of it?

Mr. ROBERTS. Why, no.

Mr. MACKINTOSH. Mr. President, as one of the minority of that committee I will say that Mr. Kiesel is out of town. That will be prepared probably to-morrow, but as it was on the calendar the sixth in order we did not hasten about it at all; but it is coming.

Mr. CHIDESTER. Mr. President, I simply want to say this, that the object of wanting to make this a special order is to give them notice that it is going to be considered at that time, and when that time arrives they will have no reasonable grounds to say that they are not prepared to meet it and thereby set a delay when we reach it. We set it now so that they will have time to be ready to meet it.

and they have just as much time to be ready to meet it as we have for the reason that the first day that the committee met that was the very first thing that was done—was to take up that section—not the first day, but it was agreed the first day that the next meeting we would take up that section and look it over. In pursuance of that we did take it up and look it over and passed upon it, and from that day until now they have understood that was going to be passed and they should be prepared just as well as we.

Mr. JAMES. Mr. President, if I could see wherein the majority of the committee would be injured, or discommoded or inconvenienced, I should vote for the motion to suspend the rules, but it seems to me that if every committee would pursue the course of this committee a great portion of our time would be consumed in trying to place orders one ahead of another. It seems to me that the course for us to pursue to expedite our work is to let each article as reported by the committee take its place and take it up in its order. For that reason I don't feel that I can vote for the proposition to suspend the rules. I concede that each article should take its place and come up as the secretary records it.

Mr. SQUIRES. I call for the ayes and noes on this proposition.

Mr. THURMAN. Mr. President, I desire to say a few words before that is done. The question has been asked here why hasten this measure? I think frankness in all things is about the best policy to pursue. I will tell you why I want it hastened. I am informed by the gentlemen on the other side that we are losing votes every day. [Laughter.] I am informed by gentlemen of the other side that if we do not get this measure considered and carried that they will work up enough opposition to it to defeat it. For that reason I am in favor of suspending the rules and disposing of it just as quickly as pos-

sible. I do not want to see Democrats and Republicans who have unanimously, in all due solemnity, pledged themselves to carry out the principle, put themselves in the inconsistent position of trying on the floor of this Convention to defeat that which they have pledged themselves to do; and if I can save them—if we can prevent that inconsistency in the eyes of the world let us do it. There will be that much good done if nothing else. [Laughter.] Let us suspend the rules and put this measure on its passage and do what we have pledged to the people to do.

The question was taken on the motion to make the report a special order and it was decided in the negative.

AYES—61.

Allen	Larsen, L.
Anderson	Lemmon
Barnes	Lewis
Boyer	Low, William
Brandley	Low, Peter
Buys	Maeser
Call	Maloney
Cannon	Maughan
Chidester	Morris
Christianson	Murdock, Beaver
Clark	Murdock, Wasatch
Coray	Nebeker
Corfman	Partridge
Creer	Peters
Cunningham	Peterson, Grand
Driver	Peterson, Sanpete
Engberg	Preston
Evans, Weber	Raleigh
Evans, Utah	Richards
Farr	Ricks
Francis	Robertson
Hammond	Robinson, Kane
Hart	Robison, Wayne
Halliday	Shurtliff
Heybourne	Snow
Howard	Symons
Hughes	Thoreson
Ivins	Thurman
Johnson	Warrum
Kimball, Salt Lake	Whitney.
Lambert	

NOES—32.

Adams	Kimball, Weber
Bowdle	Lund
Button	Mackintosh
Cushing	McFarland
Eichnor	Moritz
Emery	Murdock, Summit
Gibbs	Page
Goodwin	Pierce
Green	Roberts
Haynes	Squires
Hill	Stover
Hyde	Strevel
James	Van Horne
Jolley	Varian
Keith	Wells
Kearns	Williams.

ABSENT—13.

Crane	Ryan
Eldredge	Sharp
Kiesel	Spencer
Kerr	Thatcher
Larsen, C. P.	Thompson
Low, Cache	Thorne.
Miller	

Mr. THORESON. Mr. President, I was asked by Mr. Low, of Cache, to have him excused, but he asked to have his vote recorded aye, in favor of this proposition.

The PRESIDENT. It is lost, gentlemen; it requires a two-thirds vote.

Mr. Brandley offered the following, and moved its adoption:

Resolved, that we, the members of the Utah Constitutional Convention, assembled at Salt Lake City, do hereby express our sympathy with the grief-stricken people of Wyoming in the calamity which has come upon them through the terrible explosion in Red Canyon; and, be it further

Resolved, that we devote one day's salary to the relief of the wives and children whose husbands and fathers have met death in this horrible catastrophe; be it further

Resolved, that the president of this Convention be and is hereby authorized to make the necessary arrangement for the proper distribution of the money thus received.

Mr. KEARNS. Mr. President, I would amend that and say five days' salary.

There being no second to the motion to amend, the question was taken on the adoption of the resolution, and the resolution was adopted unanimously.

Mr. CREER. Mr. President, I move that we now resolve ourselves into committee of the whole until 5 o'clock.

The motion was agreed to.

Mr. CANNON. I would like to ask the purpose of fixing the hour?

The PRESIDENT. That matter was corrected.

The Convention then resolved itself into committee of the whole with Mr. Evans, of Weber, in the chair. [Applause.]

COMMITTEE OF THE WHOLE.

The committee then proceeded to the consideration of the preamble and bill of rights.

The CHAIRMAN. Gentlemen of the committee, when we adjourned on yesterday, we had under consideration section 13 of the preamble and bill of rights.

Mr. THURMAN. We had disposed of that, hadn't we?

Mr. WHITNEY. Mr. Chairman, the committee, I believe, arose after hastily passing upon section 13, before some of us could get a fair idea as to how it would read as amended. I would like to hear the section read, before we proceed, as amended and passed.

The secretary then read section 13.

The CHAIRMAN. Gentlemen, we will take up section 14.

Section 14 was read and passed without amendment.

Section 15 was read as follows:

Section 15. No law shall be passed to abridge or restrain the freedom of speech or of the press. In all criminal prosecutions for libel, the truth may be given in evidence to the jury; and if it shall appear to the jury that the matter charged as libelous is true and was published with good motives and for justifiable ends, the party shall be acquitted; and the jury shall have the right to determine the law and the fact.

Mr. GOODWIN. Mr. Chairman, I wish to present a substitute for the section.

The proposed substitute was read as follows:

No law shall be passed to abridge or restrain the freedom of speech or of the press, but all persons shall be responsible for the abuse of the privilege.

In all trials for libel the truth may be given in evidence and shall be a sufficient defense, if it shall appear to the jury that the matter charged as libelous is true and was published with good motives and for justifiable ends, and the jury shall have the right to determine the law and the facts. Upon instituting suit for damages for libel, plaintiff shall file bonds for costs or plead insolvency.

Mr. GOODWIN. Mr. Chairman, the section is in two paragraphs. I move the adoption of the first. In the section as presented by the committee, it begins "In all criminal prosecutions for libel, the truth may be given in evidence to the jury." That naturally infers that if the suit is for damages, the truth shall not be given. I think that is the way courts will construe it. It was only to cure that defect that I wrote over the section and that is all I care to say about that particular paragraph of the section.

Mr. VARIAN. Mr. Chairman, that amendment goes further and does not accomplish what the mover intended. There is no objection so far as I know to inserting, if it is necessary, in the Constitution that the truth may be given in evidence in civil cases. That is the law now and in civil cases it is a complete defense to plead and allege the truth, because of the fact that the person claiming could not claim damages for an alleged injury consisting in something that was truthfully said about him. So far as criminal cases are concerned there is still another element in the interests of the State, which is always, or at least generally, at the present day interpolated in all laws on the subject—that before a defendant charged with criminal prosecution may be acquitted it must appear that he published the alleged libel with good motives and for justifiable ends. That

is because the State in looking after its business does not permit the publication of even the truth, unless there be a good purpose and justifiable end connected with it. It is not so as I understand in civil cases. Now, gentlemen will observe, as the section is amended that it is required not only in civil cases that the truth may be given in evidence, but that the defendant may go further and show, in order to escape being mulcted in damages, that it was published with good motives and for justifiable ends. Of course, I suppose that is not the intention, and if it were the intention, it ought not to be so. The defendant in a civil suit ought to be acquitted from damages if the publication was true, and there should not be added to it the further qualification or restriction that he must show that it was also published with good motives and for justifiable ends, as he would have to do if he were indicted. Unless taken out, the provision concerning good motives and for justifiable ends qualifies the whole matter. The committee will observe that that clause qualifies criminal and civil cases.

As to criminal prosecutions, it ought to stand substantially as it is, but as to civil prosecutions, if in the excess of caution and prudence we desire to put in the absolute declaration that the truth shall be a defense, it ought to be remodeled and shaped in that way. As it stands now, it is carrying more, I think, than ought to be carried or was intended to be carried.

Mr. SMITH. Mr. Chairman, I have an amendment to offer. I move to amend section 15 by inserting between the word "all" and "criminal" in line three of said section the word "civil" and by adding at the end of said section the words, "under the direction of the court as in other cases."

Mr. THURMAN. Mr. Chairman, I am opposed to both the amendments for the reason suggested by the gentleman from Salt Lake, Mr. Varian. Now, if I

comprehend this right (and if I am wrong Judge Goodwin will correct me), it is rather an infringement upon the liberties of the press that ought not to exist—that is to say to introduce amendments that in a civil case they would not only have to establish the truth of the libelous matter to be justified, but go further and show that it was published with good motives. Now, if it means that, the gentleman from Salt Lake, Mr. Goodwin, is asking for more stringency to be placed upon the press than I am willing to concede ought to be until I am further enlightened in the matter. These matters ought to be kept separate. The law of criminal libel is one thing as suggested by Judge Varian, and the law of civil libel is another thing. In criminal libel the truth may not be a complete defense, but the truth with good motives is a complete defense. In civil libel, if I understand the law, the good motives has nothing to do with it. A man has a right to state the truth and to plead it.

Mr. GOODWIN. Mr. Chairman, the law as has been practiced in civil cases goes as directly to the motive as to the truth. The particular stress that lawyers put is to find out the motives of the publisher and the great strain is to show, if possible, that there must have been deep malice, and on that they found their claim for damages. A man who publishes a newspaper—or a company, is responsible for it. If they publish what is true about a public man, the motive is implied. If they publish about a private citizen something that is true, they will have to show that they had a good motive in doing it. I meant it exactly as the language conveys. I think that the newspaper is responsible for what it says, but I protect it after that. I may say while I am on my feet, the amendment of Mr. Smith will, if adopted, have to be fixed, because in civil cases men are not acquitted.

Mr. VARIAN. Mr. Chairman, just one

more suggestion. I will say to the committee that you must expect naturally lawyers will take an interest in matters that they know something about and that accounts for some of us, perhaps, intruding ourselves upon your attention.

In all civil actions for libel, if the truth is not shown, there is an absolute right in a citizen to recover what is termed compensation, this is to say, damages commensurate with the injury done to him in his reputation. The question of malice never enters into it, except when it goes further and seeks to recover what lawyers and the law know as vindictive or punitive damages, which are awarded by way of punishment or smart money. He may or may not claim such damages, or his case may or may not present a case for the awarding of such damages. In either case the truth will defeat the claim. Now, as to the amendment offered by my colleague from this county, I call attention to the fact that the last clause which he would put at the end of the section absolutely neutralizes the provision as found in the section, giving the jury the right to determine the law and the fact in criminal cases, which is the law everywhere to-day and has been ever since it was adopted in England after the great battle in Westminster hall. In criminal cases, if it should stand without any reference to the other amendment offered by the gentleman from Salt Lake, Mr. Smith, it would provide that the jury might determine the law and the fact as in other cases under the direction of the court. What does that mean? It means nothing. I submit to the gentleman, in either case, except in cases of criminal libel, the jury determine the question of law and fact under the direction of the court. It simply neutralizes itself. What I think the gentleman desires is to give the jury the right to determine the question of law and fact in criminal cases only, without reference to the court at all, except that

the court has the right to declare what it supposes the settled law to be and then the jury can go off and decide that question in accordance with its views, or otherwise.

— The question being taken on the substitute of Mr. Goodwin, it was rejected.

Mr. GOODWIN. Mr. Chairman. I move that the section be stricken out entirely. As it is, I think the section is a menace to everyone who publishes a newspaper in this State. I think that it would be so construed by two-thirds of the courts. In all the constitutions I have ever seen the same protection is thrown around civil as criminal cases. I believe that the ordinary judge, with this mandate in the Constitution, would rule that that was the supreme law and that there would be no use of pleading the truth, or anything else in the libel case.

Mr. WELLS. Mr. Chairman, I will say in behalf of the committee that had this matter under consideration, that I don't remember now that there is any constitution, excepting perhaps Wyoming, wherein there is a similar section providing that the civil and criminal prosecutions shall be taken together, as the judge has stated, and this section, just as it stands here, is the same as in New York, California, Michigan, Wisconsin, South Carolina, and Maine, and there are similar provisions in a great many of the states.

Mr. GOODWIN. Mr. Chairman. I wish merely to say one word in explanation. There was a second paragraph in that section. I intend to explain to the committee that under all the circumstances it would come under the head of legislation; but the libel law has been two hundred years or more in getting up to the present state of barbarism, and in this country forty-four constitutions have been made and a good many of them have been remodeled and that particular feature to protect newspaper publishers against

blackmailers has been left out. That is the reason I put it in. I care nothing about it personally. I was asked to do it by a great many members of the Press Association of this Territory.

Mr. FARR. Mr. Chairman, I have a motion to suggest or make to strike out all of section 15 after the first two lines.

Mr. VARIAN. Mr. Chairman, do not let us be in a hurry about that. If gentlemen will take the trouble to study the history of the law of libel, they will find that this provision on the criminal prosecutions became engrafted under the law of England, and into the law of the United States after fierce and bitter defense of the liberties of the press. The battle was waged for many months running through years in Westminster hall.

Prior to that time the law of criminal libel was expounded by courts of England in this wise: The jury was left to say whether the matter was published or not, and the courts upon that looked into the alleged libelous matter and determined for itself and against or for the prisoner, whether it was libelous or not, and thereupon judgment was awarded. Now, the people of England made that fight through their bar, led by a Lord Erskine, and they won it after repeated and unsuccessful attempts so that the criminal law of libel was changed, leaving it to the jury in all cases to determine, not only the question of fact, whether the accused published the libel, but as to whether it was really libelous and whether it was under such circumstances that the man ought to be punished for it. That is the law of the United States to-day. In substance, I believe it is in the constitution of every state. So far as my observation goes at least it is so administered. Why then take it away from the jury? If the gentlemen desire to add further provisions as to civil cases, that can be accomplished by offering an independent amendment without interfering with

this matter, which ought to be left in the organic law. I submit that we do not want to strike that out. We do not want to take that from the jury. We want to leave that just as it is in criminal cases, that the jury shall judge of the law and the fact, and if you want to add to it a proviso, because you are desirous of making it perfectly clear in due caution, that in civil cases the truth may be offered in evidence, why, you can put that in by an addendum.

The question being taken on the amendment proposed by Mr. Farr, the amendment was rejected.

The motion of Mr. Goodwin to strike out all of section 15 was lost.

Mr. KIMBALL (Weber.) Mr. Chairman, I offer this amendment, to add to section 15 the following matter, "and in civil prosecutions for libel the truth may be given in evidence, and if it shall appear to the jury that the matter charged as libelous is true, it shall be a complete defense."

The amendment was rejected.

Section 16 was passed without an amendment.

Section 17 was read as follows:

Section 17. All elections shall be free and equal, and no power, civil or military shall at any time interfere to prevent the free exercise of the right of suffrage. Soldiers in time of war may vote at their post of duty, in or out of the State, under regulations prescribed by law.

Mr. VAN HORNE. Mr. Chairman, I move to strike out in the first line of section 17 at the end of the line the words, "and equal."

The amendment was agreed to.

Section 18 was read as follows:

Section 18. No ex post facto law or law impairing the obligation of contracts shall ever be passed.

Mr. THURMAN. Mr. Chairman, before leaving section 18, it seems to me there is the same reason for inserting "bill of attainder" as ex post facto law and law impairing the obligation of

contracts. I move the words, "bill of attainder" be inserted before the words "ex post facto law."

Mr. WELLS. Mr. Chairman, the committee had that under consideration and thought that it was better out. A great many of the latter states have left it out and the committee have never heard of any such thing and deem it unimportant.

Mr. ROBERTS. Mr. Chairman, as I understand the object of the Constitution it is not to create facts or customs but is really to declare what the custom is, and to say that because it was never heard that there was any bill of attainder ever passed in this country or State, is no reason why its prohibition should not be fixed when we are making up our Constitution. I don't suppose there has been any ex post facto law passed in this country.

Mr. WELLS. A great many of them.

Mr. ROBERTS. But whether that be true or not, it seems to me that the proper thing for us to do is not so much to slight things that are customary, but to declare what that custom is. Nearly all these provisions in the bill of rights rest upon the customs and declarations of what the real situation is. I do not think that that is a proper reason to give for refusing to insert this bill of attainder, that there has been nothing of that kind known in this country.

The motion was agreed to.

The section as amended was adopted.

Sections 19 and 20 were adopted without amendment.

Section 21 was read as follows:

Section 21. No distinction shall ever be made by law between resident aliens and citizens as to the possession, taxation, enjoyment, or descent of property.

Mr. VARIAN. Mr. Chairman, I move to strike out that section. The reason is this: This question of the right of aliens to hold property within a state is peculiarly one of sovereignty and ought to be left to the Legislature. The law has been occasionally, in modern

times, changed by treaties with foreign governments. It is desirable to keep the law of the United States in that way in accord with the progress made with other nations. To illustrate: Some years ago the federal government made a treaty with France in which the French government agreed that American citizens in France should have the same rights under some few restrictions as its own citizens in regard to the use and enjoyment of property. Reciprocally, the United States agreed during the life of the treaty that the same privileges should be extended to French citizens. But it is not desirable, I submit to the committee, that this matter should be permanently determined in the organic law. If a war should break out between this government and another country, it might be very necessary that all the rights of sovereignty should be exercised, which, in such cases, would include even the confiscation of the enemy's property, or the property of the alien enemy. Of course, that would be an extreme case. The exercise of such extreme power would have to be an exceptional case in the present age of modern civilization. Still, it is reserved and ought to be to every government. You can imagine cases where it would not do at all to have a large portion of your agricultural lands, for instance, on which you rely for the support of your people and your State, owned and in the possession of foreigners. It must be in a situation so that it could be made useful in accordance with the exigencies of the occasion, the necessities of your people; and for that reason, I think the matter ought to be left to the Legislature. Particularly is it true in the absence of the assertion of the right of the government to take from an alien the property which he holds. I speak of real property. He can hold as against anybody else in the absence of a prohibitory law. Of course, Congress has passed one so far as this Territory is concerned,

but supposing this Constitution says nothing about it, and the Legislature says nothing about it, an alien can hold. He cannot transmit his property through his ballot; it cannot be transmitted by the descent to his kindred, without the express provision of law authorizing it, but he can hold it and enjoy it. He can hold it for his life; he can hold it until the government comes in, and through its officers, escheats it to the use of the government. Now, why not leave that for the Legislature to act upon? It can ascertain what countries extend the same privileges to the citizens of the United States, and can limit such privileges if it chooses, as seems to have been the course of governmental policy elsewhere. or it can say nothing about it, but whatever it does, it can change it from time to time; but if you put it in the organic law here it will take years to change it.

Mr. WELLS. Mr. Chairman, I would be in favor of striking out the word, "resident" in line two.

The CHAIRMAN. Do you move that as an amendment to the amendment of Mr. Varian?

Mr. WELLS. Yes, sir. The purpose of the committee in inserting this section was that the Territory or the new State is in need of capital. One of the great essentials to the prosperity of this country is the investment of foreign capital, and this is a guarantee to the people who reside abroad that if they will invest in property in Utah no distinction shall be made as to their property, as to its enjoyment, taxation, and descent, from the property of citizens of the State. I am informed that in Salt Lake City now there are a great many foreigners who have invested, as well as in other parts of the Territory. One gentleman, who resides in Liverpool, has as much as three hundred and fifty thousand dollars' worth of property in Salt Lake City. The statement has been made that possibly the new Constitution would make some such

distinction as this, or would make some distinction against the property of foreigners, and this was put in as an invitation for foreigners to invest in the Territory.

The CHAIRMAN. I want to say, gentlemen, that the chair is of the opinion that that amendment would not be in order to a motion on the part of Mr. Varian to strike out the entire section.

Mr. VARIAN. Then, the only motion is to strike out the section as it stands?

The CHAIRMAN. Yes, sir.

Mr. VARIAN. I want to reply for a moment to Mr. Wells, and suggest this, granting all that he says, how can that affect this question that I am speaking of? There may a time come when the State will want to make a distinction between property rights as to the holding of land and the transmission of it by descent between aliens and its citizens. As I understand it the State could not confiscate the property of a man, it could not impair the obligations of his contracts, if he came in here and held property. Why not leave it to the Legislature to determine when and under what circumstances, and for how long they will permit aliens, resident or otherwise, to hold land? I don't care so much about the taxation proposition; I know that they would not tax them any higher than other people anyhow. It would not be permitted, because you have another provision in that Constitution that taxation will be equal and uniform. The court would hold the alien was entitled to the same protection under that section as the citizen.

Mr. JAMES. Mr. Chairman, I can appreciate very readily the motive of the committee in adding this section. So can any man that has been familiar with the mining industry in this Territory in the last few years, since the land act became a law. Gentlemen who are familiar with what has been going on know that states like Idaho—in a

short period after the state came into the Union, received from Europe about seven millions of dollars invested in mining enterprises, while the Territory of Utah hardly received that many hundred dollars from foreign countries, and I suppose probably that is one of the reasons why we find that commonly in the new states that have come into the Union. That alien land act has worked, in my judgment, very severely upon the Territory, and to give this out, as it is put forth in this article, I think is surely going to help out and say to the balance of the world that if they may come in here and purchase property, as they did in Idaho and other new states adjoining, and I am in favor of the article as it stands.

Mr. MALONEY. Mr. Chairman, I am in favor of the article as it now stands, because it is copied from the constitution of Wyoming. I don't think it is wise to make a distinction between a resident and non-resident in holding property in the State.

Mr. VARIAN. If the gentlemen will excuse me, I will withdraw the motion.

Mr. THURMAN. I object; I think it is a good motion.

Mr. MALONEY. The section as we have it is copied from Wyoming. I think it ought not to be stricken out. We want to encourage foreign capital to come here.

Mr. THURMAN. Mr. Chairman, I think the motion ought to prevail. If some gentleman from Liverpool has three hundred and fifty thousand dollars in Utah, under what law did he bring it in? He didn't have anything of this kind as a protection. He knew that he had protection without it. Now, this is unquestionably a matter that ought to be left to the Legislature. They will never abuse a trust of that kind. Can you conceive of a Legislature that will want to legislate against the introduction of capital under proper circumstances and at proper times? We have

had no such law before. We have had nothing declaring this inequality, but they have been equal just the same. But there may a contingency arise in this country when this power, or rather this limitation upon the power of the state government, will be exceedingly dangerous. I think that it ought to be wiped out and left entirely to the Legislature. For that reason I am in favor of the motion to strike out.

Mr. WELLS. Mr. Chairman, I desire to state—the gentleman has said that this is the same proposition that is in the state of Wyoming. I will say that it is also in North Dakota, Arkansas, Nebraska, South Dakota, Wisconsin—as many as that and I don't know how many others.

Mr. ANDERSON. Mr. Chairman, I would be in favor of the motion for this reason, that there may come a time when the safety and defense of our government might require that there should be a distinction between aliens and citizens, in regard to holding property, and I think that it can be safely left to the Legislature.

The CHAIRMAN. Gentlemen, the motion of Mr. Varian, of Salt Lake, was to strike out section 21. Mr. Wells moves to amend by striking out the word "resident" in line 2.

Mr. THURMAN. Mr. Chairman, I raise a point of order on that; that is not germane.

The CHAIRMAN. If the point of order is raised, I shall have to sustain it.

The question was taken on the motion of Mr. Varian, and on division there were: ayes, 49, noes, 43.

Section 21 was stricken out.

Section 22 was read as follows:

Section 22. Neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist in this State.

Mr. WHITNEY. Mr. Chairman, I propose a slight amendment in line 2,

that the word "whereof" be stricken out and the words, "of which" be substituted.

Mr. EICHNOR. I think that is the language of the Constitution of the United States.

Mr. WELLS. Exactly.

Mr. EICHNOR. I believe in adhering to the Constitution of the United States when we copy it.

Mr. WHITNEY. It is a hundred years old.

The question being taken on the motion of Mr. Whitney, the amendment was rejected.

Section 23 was read as follows:

Section 23. Private property shall not be taken or damaged for public use without just compensation.

Mr. THURMAN. Mr. Chairman, I move an amendment by adding the words "first made," so that his compensation shall be made before the property is taken. That is in accord with most of the constitutions.

Mr. ROBERTS. Does that mean before the damage is done?

Mr. THURMAN. No; I move to strike out the words "or damaged."

Mr. VARIAN. Mr. Chairman, I call for a division of that—there are two motions.

The CHAIRMAN. The chair will divide the motion so that the question on striking out "or damaged" will first be voted upon.

Mr. THURMAN. Mr. Chairman, I would like to suggest to the gentleman from Salt Lake, Mr. Varian, that my purpose in offering this amendment is to provide for a compensation being made before the property is taken. If the words "or damaged" are put in there that cannot be very well determined. There ought to be a separate section covering the damage of the property.

Mr. VARIAN. Mr. Chairman, I am in accord with the motion of the gentleman to require the compensation to be first made, but it seems to me that

to strike out "or damaged" is a very material matter. I have taken pains to look at it a little to-day in the late works on eminent domain, and I find it is put in other constitutions or statutes to meet the entire case. In some states some courts have held that damage to property of a consequential kind was not necessarily within the meaning of the article of the constitution. For instance, I believe in Pennsylvania—I may have confounded the state—the question arose where an elevated road was erected upon a street and while it did not touch the property of the abutting owner, did not destroy a brick, did not take a foot of his ground, it did affect his use and occupation of his premises very disastrously. It affected the convenience of the inhabitants of a house, and in this particular case, following later, it was held that there was no remedy. There was not the taking of the property. Now, the courts of New York went off in another direction and it is finally settled in that case that such injury as that could be compensated under the law of eminent domain. To make it perfectly clear this word has been put in laws and constitutions, and the text-writers say that it is an equivalent for any kind of injury of that kind.

Mr. THURMAN. Mr. Chairman, I agree that the compensation ought to be made, but the trouble would be to make it first in the case of a consequential damage.

Mr. FARR. I do not see why. Take a case like that. It could be estimated. There could be no subsequent change; there is the railroad; there is the house; there are the windows; there is the deprivation of light and air; there are all the necessary inconveniences of noise and soot and cinders, and disturbing the peace and rest of the family. That can be compensated for just as well in the beginning as it can after the lapse of ten years, because the means of arriving at the estimate are within the

knowledge of men and can be adduced before a jury. I do not care how the gentleman does it. I do not wish to be technical about it; I would like to see those words, "or damaged," kept in some way.

I hope those words, "or damaged," will remain in that section. I do not wish to argue the point, but I can see in a great many instances where it would be very important. For instance, on a sidewalk, a person owning land; they dig down a bank ten or fifteen feet, and damage that lot to a great extent. I think the man should be remunerated for the damage done to his lot. I move that those words remain in that section if they possibly can remain there.

Mr. THURMAN. Mr. Chairman, my objection to the words "or damaged" is the utter impracticability of providing for compensation before the damage is done. Now, I will cite an instance familiar to a great many. A few years ago people in Salt Lake County placed some boards in a dam here at the point of the mountain; they had a right to do that if they did not damage anybody and I don't suppose they thought they would damage anybody, at the same time they did it; but the result was that a great many people in Utah County were damaged, after the act which caused the damage. Now, in a case of that kind how would compensation be made before the act was done which caused the damage? Damage is not always—in fact is not often contemplated or expected. It comes unlooked for as the consequence of an act which the party performs. Consequently it seems to me that as to taking property by the law of eminent domain they should have the right to take it when they pay for it, if the necessity for taking it exists. As regards damaging it, why, it ought to be paid for as soon as the damage can be ascertained. It seems to me that this is the only way that it can be done.

Mr. EICHNOR. Mr. Chairman, if I

understand the gentleman correctly, from Utah County, he would be in favor of striking out the words, "or damaged." Gentlemen, I hope this amendment will prevail. Just for the very reason that the gentleman from Weber County said it should be in the Constitution. Take a city like Salt Lake, where grading is required, or any other city where grading is required, and you will bankrupt those cities if you place this in the Constitution. Every man that owns property in the street—the street will be graded and one or two or three people will claim damages and the result will be it will bring the municipalities into court.

Mr. VARIAN. Would not the compensation benefit always allowed in a case of that kind more than equalize the damage?

Mr. EICHNOR. The law is unsettled at present in regard to the grading of streets whether they can secure damages; it would simply bankrupt Salt Lake City, I tell you that, gentlemen, if you place this in the Constitution.

Mr. PIERCE. Mr. Chairman, I am in favor of retaining the words "or damaged." I recollect a spectacle a few years ago of grading in Salt Lake City. There was a certain street—I believe it was State street—the grade had been established for some years, and the city came in and established a different grade and built the street up some ten feet higher than property abutting on it. There is a spectacle where they could not get any damages for it, and the street as it was built absolutely destroyed the value of their property and they could not get a cent for that. I say that it ought to be fixed so that the city must adjust the grade for the accommodation of people that own property along a certain street and that is the reason that I am anxious that the words "or damaged" should be left in. And in speaking to the remarks Mr. Varian made, I desire to

read a line or two from Lewis in his work upon Eminent Domain:

"When the people of Illinois revised their constitution in 1870, they introduced an important change into the provision respecting the power of eminent domain. The provision reads as follows: 'Private property shall not be taken or damaged for public use without just compensation.' Every other state which has revised its constitution since 1870, except North Carolina, which never had any provision on the subject, has followed the example set by Illinois by adding the word 'damaged' or its equivalent to the provision in question."

And the question not only refers to street grades in cities, but refers to grades of railway property. For instance, it is unfair that a railroad should run right next to a man's front door or almost next to his front door, and that his property should be destroyed or half the value taken away without making some compensation for that property which is really not reached, as no part of the property is taken; that is, the part of the property that is damaged; and I say I am in favor of being liberal in eminent domain act, but whenever we grant this liberty to corporations in any way—public or private corporations, we should make them pay for whatever they take, and I believe the words "or damaged" should remain in the Constitution.

Mr. RICHARDS. Mr. Chairman, I am opposed to the motion to strike out the words "or damaged." I believe, as has been said already in this discussion, that when the public use a man's property or make an improvement that virtually destroys the use of that property, that they should pay for it as much as if the property itself were taken. Of course, as has been suggested by the gentleman from Salt Lake, whatever benefit results by reason of this improvement is set off against the damage that is caused, and in that way the public gets absolute justice in relation to the matter, but to say that a public corporation should be permitted by the

raising of a grade or by the lowering of a grade or by any other kind of improvement to injure private property and because they don't actually enter upon and take the property itself, although they do destroy the use of the property, that they should be liable for damage; I think it is unjust and unfair and I am therefore opposed to this motion.

Mr. RALEIGH. Mr. Chairman, I propose a slight amendment, "Private property shall not be taken for public use or damage without just compensation first be made." Simply a reconstruction of the section, that is all.

The CHAIRMAN. The chair rules that that would be a proper question on revision and compilation.

Mr. THURMAN. Mr. Chairman, I will withdraw the motion to amend as far as "or damaged" is concerned if it is not objected to.

Mr. PIERCE. Mr. Chairman, I don't think that "first made" should be put in there. If I recollect the statute correctly now, whenever a corporation is permitted to enjoy the benefits of the eminent domain act and desires to take property at all, before they can do it they have to apply to the court, and it is within the discretion of the court to fix a bond and require good sureties before that property is taken, and I believe it should be left to the Legislature as to how it shall be taken. This is simply a declaration of principles that it shall not be taken. The Legislature can require any corporation either private or public, to put up a bond before they take anybody's property or damage it, without any constitutional provision.

Mr. CREER. Mr. Chairman, I am in favor of the motion of the gentleman from Utah, that the amendment shall be added to the section for the reason that notwithstanding the gentleman from Salt Lake says compensation may be secured, yet we know of cases—there are many in the Territory where prop-

erty has been taken and the party dispossessed and that the property be litigated for for considerable length of time and the party kept out of possession, notwithstanding there may be a bond there, and at the same time probably he would have to sue upon the bond afterwards. I think it is a very strong proposition anyway to give the public a right to dispossess a private person of his property summarily and it seems to me he ought to be compensated before that is done, because he may be put to a great inconvenience and loss of time. He may have to sue even upon the bond after he should vindicate his rights in the court. Therefore, I am in favor that if that should be required, he should be first compensated before his property is taken.

Mr. GOODWIN. Mr. Chairman, I do not believe the committee can pass such an amendment. Emergencies may arise when it would be simply impossible to carry it out. What there ought to be is a law (and that belongs to the Legislature) to compel fair treatment both ways. It is true that railroad companies have had the right of way, and they own and have owned for thirty years where they have gone through. It is just as true that if you try to build a railroad through some back street in Provo, or up to some mining camp, you would find yourself confronted with the most ridiculous property values you ever heard of, and every man in that town that you would get as an appraiser would raise the price. It is all right as it is; let the Legislature fix it sometime within a year that the property shall be paid for and that the party taking the property shall give ample bonds. In this bill of rights it is simply foolish to put something that cannot be executed, because emergencies would arise in the mines, in the cities, and in the fields, where there are floods that would make it impossible. Sometimes the thing is to be acted upon in a moment, and there will

be no one to pay in advance, or to estimate in advance what the damages shall be.

Mr. VAN HORNE. Mr. Chairman, I want to call the attention of this committee to the fact that there are other cases in which it would be impossible to make the payment before the work was done, which would be held to be damaged. Take the instance that has been brought up by grading of a street. We all know by experience that many a time men at the time the street was driven through and the grade is changed think their property is injured and injured very severely. But upon further consideration, and seeing the benefits of the work that had been done for the public they find that where they would have considered themselves greatly damaged in the first instance their property, in the eyes of every real estate man, has actually been improved and increased in value. Now, if the damages have to be paid before the property was taken or damaged, do you suppose that any one would come to the conclusion, no matter how much others did, that he had been robbed in receiving the damage that he thought he had sustained at the time and was ready to pay it back to the public?

Another instance, we will take the case of a railway which in some manner, rightfully or wrongfully, has acquired its right of way, and we will say a hundred feet on each side of the railroad track, or two hundred feet wide in all, or a hundred feet wide; another railway wants to cut across the line and they know they are going to be a competing line, how long do you suppose it will take the railway in possession to come to the conclusion that they are not going to let those people go through on a decent rate of damages? They will hold them there until the charter of the other railroad expires if it was possible to do it. And where you make a law of this kind and say that the damage must be paid first,

how are you going to estimate your damage? They say, "we will be damaged ten thousand or ten hundred thousand dollars by you crossing our tracks." The law provides for it now, it says, "you can proceed with your condemnation proceedings by giving a bond to answer in damages." What is the trouble with that? Why not have it? Are we going to have only the railroads that we have here now or are we going to have others that will cross the tracks of this, that, or the other corporation? The same thing will come—suppose a railroad was going to a mining camp and there was a narrow canyon and some fellow had a claim and one corner of it lapped over the proposed course of that railroad; his claim is benefitted by the railway, that strip of land with no mineral on it would be worth for that occasion ten times the value of the mineral part of the claim, and he would assess his damages to the railroad company at such a figure that if they paid many such claims as that, it would cost them double the amount to build the railroad. Now, is not the citizens protected by the fact that our laws would say that the bonds must be filed to secure the damage, then the work can proceed, so that there will not be this unnecessary delay? Would not the public be benefitted by forcing a railroad company upon bonds being given, to let another railroad company cross their track? Are not we looking for the development of this country and not to say that those who are in possession of surface ground of one kind or another shall say to the world, "Oh, you cannot cross our ground without paying us what we estimate it is worth, no matter what the development is that is done; we do not want the land; we say we do for this occasion. We are not using it, but you cannot use it; we will sit here as guardians of the right of way, and this, that, or the other thing, and say you must

not come until you pay us just what we see fit?" Gentlemen, such an act as that, in my opinion, would be putting into the hands of men who wanted to act as obstructionists, the power to act as highwaymen to every enterprise that came along, and say, "throw up your hands and give all your money to me."

The Hon. John Clark was admitted to the floor, at the request of Mr. James.

Mr. BOYER. Mr. Chairman, I hope the motion to amend will not prevail for the reason that I have a case in my mind now. Some two or three years ago a certain railroad company building a railway to Springville, having right of way, and they had fairly and justly compensated the parties for properties that they had used for their road. Subsequent to the building of the track and the running of the line it appears as though the erection of the grade had caused also some swamp lands to arise to a very great damage to the party that was interested there. It was a subsequent damage to that that could not possibly have been thought to have been asked for at the time of the construction of the road; hence I think, as it has been stated by a number of persons here, that to collect a consequential damage would really be inconsistent, and as I construe this section as it reads "private property shall not be taken or damaged for public use, without just compensation," that it conveys to the party owning the property the idea that he holds and has an inherited right in his property, and when just compensation is made therefor, he is entitled then to convey a title to the property. And furthermore, in answer to the gentleman on my right in relation to a railway holding another railway company off, the construction I place upon this argument is this, that if one railway company be a private corporation, owning private property, all other railway

companies of necessity must be private corporations, and consequently in relation to railway companies may not fully apply here; or private property taken for public use does not really and necessarily mean that a man's private property taken for railway purposes is converted to a public use, but it is converted to a private corporation and the private corporation eventually uses the road for public purposes; and hence, I believe that the right in private property is covered and provided in the section following, 24. I believe it is there fully covered and that section 23 guarantees all the rights of the individual that are necessary. And if I understand what constitutes the conversion of property to public use, the public is always good for the damages that may accrue against the private individual.

Mr. THURMAN. Let me ask you a question.

Mr. BOYER. Yes, sir.

Mr. THURMAN. Please tell me under what provision of the next section you place a railway company. If it does not come under the head of public use, where does it come?

Mr. BOYER. I would say this, that I have to place it in just the same position that I would a man that would own one acre of land—a railway running through and across that ground, that is given to a railway company, I would hold to be a private corporation, and as such they would be entitled to compensate the individual for the damages they would do the property they would take and also be liable for any subsequent damage that might be done.

Mr. Howard offered the following substitute for section 23:

Private property shall not be taken for public use without just compensation first made, and no private property shall be damaged for public use without just compensation to be determined by a competent tribunal.

Mr. RICHARDS. Mr. Chairman, I am opposed to the substitute, and I am op-

posed to the amendments, because as has been shown here already in this discussion, it is very apparent that emergencies may arise when it will be impossible to determine the amount of damage or the value of the property taken before the property would have to be used. Not only that, but if this section applies to railroad corporations, as I am inclined to think it does, then I am opposed to the amendment for this reason, that it would prevent the construction of railroads and the making of other improvements—that is, other improvements that would be for public use. It is true that private property taken for a railroad would be taken by a private corporation, but it would be taken for a public use because the public use the railroad. Now, I am not in favor of any railroad corporation, or of any corporation, public or private, taking any private property that it does not pay for. I want that distinctly understood; but I do say that when provision is made by the giving of bonds for the payment of the value of the property taken, or of the damage that may be sustained to the property by reason of the use that it may be put to, then the party owning the property is safely protected and the public improvement can go on, whether it be taken by a public corporation or whether it be by a private corporation. For example, a railway company desires to construct a railroad and they are met by the exorbitant demands of perhaps one or two or three, or a dozen persons owning land on the line of their road. These people say “we absolutely refuse to make any terms with you,” or they put their price so high that the railroad company feel they cannot pay it and ought not to pay it. Perhaps several times as much as the property is worth; perhaps they do not want the railroad there at any price. What is the result? Proceedings for condemnation would have to be taken, and according to the experience of the courts, as we

have had them here for years past, one or two years would be consumed in determining the value of that property, and the compensation to which the owner was entitled, before the railway could be constructed. Railroads would not be built under those circumstances, and railway companies do not project railways this year in the expectation that they will construct them two or three years hence. By the time they had acquired the title to their property and the right to pass over it, the exigency, or the desire, or the necessity for the railway may no longer exist. It may not be desirable and the road might never be constructed.

I say that under the present law, they have all the protection that is necessary. Just such a law as we may presume that the Legislature would pass in the new State, and that is when any company—a private corporation or a public corporation—would enter upon the property of another person, or of a company or a corporation, that they should give a good and sufficient bond to be responsible for the damage that may be awarded and then they can go on and construct their improvement, and as soon as the courts can determine the question, the party gets his pay.

Mr. VARIAN. Will the gentleman answer a question?

Mr. RICHARDS. I will try to if the gentleman will ask it.

Mr. VARIAN. I just want to know if it is your idea that the railway company should take the man's farm whether he is willing or not, and then litigate it or not?

Mr. RICHARDS. It is my idea that if a railroad is projected through my farm and I refuse to make reasonable terms with the railway company, that the company may enter upon that ground and by giving a proper bond they may take possession of it, and when the value of that property is determined and the damages I have sustained—they are to pay it. That is my idea of

it exactly, and I say that if I don't adopt this method—if you adopt the other method, then you put a block in the way of progress and of development in this country, and in this new State, that the people of the State do not want to have there; that is what I say. I instanced it in the very example I have stated. I can point to cases now that are pending in the district court in this district that have been pending there over a year—just such cases as I am speaking of where companies have entered upon the property of people, who refused to enter into negotiations with them or to agree with them on a fair compensation for that property; they entered upon it and gave their bonds, and from that day to this the court has not reached that case and they haven't been able to litigate it. Now, would you say that railroad should not have been constructed—that that public improvement, whatever it might be, ought not to be made. Why, if you say that, you will not have railroads, and many other public improvements will not be made, for the reason, as I have stated, that when men enter into these undertakings that involve the expenditure of large amounts of capital, they do it because the time is ripe when they enter upon the enterprise for the accomplishment of it, and if they cannot accomplish it within a reasonable time, if they have got to wait two or three years before they can commence the construction of the road, they are not going to build a railroad, they are not going to project it. For that reason, I say I am opposed to it and I say that the individual has ample protection, when the owner of the property and the company that desires to take it cannot agree upon its value and upon the damage that will be incurred, and a sufficient bond is put up, as soon as the matter is determined he gets his money.

Mr. JAMES. Mr. Chairman, I hope the gentlemen will be a little patient. I don't believe there is a question to come

up before this Convention that will be of greater importance to it than the one that is being discussed right now. I am heartily in accord, Mr. Chairman, with the remarks of the gentleman who has just been on the floor, Mr. Richards; I don't believe we can afford in this Convention to take that matter out of the hands of the Legislature. I am in favor of the Legislature meeting and arranging how this shall be done. I say that we can afford to be as liberal as the great state of Illinois. There is a state that is almost one solid garden. It is said that there is not one point in the state of Illinois that is ten miles from a railroad. Now, what do they do? They leave it to the Legislature, and as it has been read on this floor already during this debate, they simply say that damages and compensation shall be allowed by a jury or fixed by the state. They leave it to the Legislature. Now, why cannot we be as liberal as they are? Mr. Chairman, I can tell you why we cannot be more liberal than they are, for the very reason that the lands that our railroads are built over into this great vast desert country are far less valuable than they are in the state of Illinois.

This is a country of the most difficult kind to build railroads and maintain them in. We have long hauls, and the most heavy grades that are to be found anywhere in the world, and in order to build railroads we must give them an opportunity and a fair show. Now, the gentlemen that are familiar with the construction of railroads through these canyons and these mountains all know what the builder of a railroad has to contend with. I have seen it myself, within twenty-five miles of this town. I have seen a railroad blockaded for three months and our men behind their breastworks to prevent that railroad from passing over a little piece of land that was not worth one cent, and is not worth to-day one cent, only for to lay that roadbed upon,

and the work that existed there at the time when these gentlemen took possession of this land was nothing more than some holes dug into some copper-stained rock by some gentleman that had thought previous to that that there might be some mineral found there, and when this man found the survey was being made and the road must come over that point, he rushed out and locates and takes possession, and what did he do? He blocked the Bingham canyon railroad for two months and two men were shot over it. Now, why not allow this matter to be put in some shape so that these difficulties can be adjusted without compelling the land to be paid for, or the damages to be assessed and paid for before that railroad is built? I want to call the attention of the gentlemen of this Convention to a point that they may not stop to think of. You take the state of Montana, the state of Wyoming, the state of Idaho, and the territories of Utah and Arizona, and the state of Colorado, and the state of Nevada, and the territory of New Mexico, and it represents an area in extent equal to a country east of the Mississippi river, or say east of the Missouri river, that contains pretty nearly thirty-seven millions of population. What is the population of these states of this inter-mountain country that I have just named to you? Less than eleven hundred thousand. Now, in that sparsely settled community with interests in common with each other, where railroads must extend in order to make them valuable, are you going to put an obstruction in the way of building those roads? You will, my friends, if you adopt the proposition that the lands must be paid for and damages assessed and paid for before the railroad can move, or, as Mr. Richards says, you will find instances where they will remain in the courts maybe for two years and prevent an enterprise being carried out

which will be of great advantage and great value to the community in which that railroad is constructed. And I hope that the original proposition will prevail. I hope this Convention will leave our legislators to regulate that matter so that we can go ahead with our enterprises, with any railroads, with any factories, with any ditches, and all such things. And if we do not have them, we cannot be a prosperous and happy people. And, Mr. Chairman, the industrial system of a nation or a state is a more delicate thing than is often thought. We have an object lesson before us in the last few years, when the country was all in prosperity and everything was moving and nobody could realize—

Mr. PETERS. Mr. Chairman, I arise to a point of order; I submit the gentleman has left the main question and is not talking about rights of way.

The CHAIRMAN. The chair thinks the gentleman is in order.

Mr. JAMES. With this condition of things, before we knew it, we were in one of the hardest and most panicky conditions that a country ever saw, and I simply mention this, Mr. Chairman, to call the attention of this Convention to the importance of being careful how they deal with our industrial institutions in our new State.

Mr. EVANS (Utah). Mr. Chairman, I must confess that in listening to the oratory displayed by gentlemen of this committee upon my right and upon my left, I can hardly tell what some of them are in favor of. They think in their remarks it ought to be left to the Legislature. They presume to say they believe such a law ought to be enacted, while others believe it ought not to be. One of the gentlemen from Salt Lake, speaking upon this question, has reminded us very fortunately that many of these cases are taken into court and they are litigated for two or three years. I want to say to you, sir, that that is one of the reasons why I am in

favor of this amendment—for the reason that if it should be in litigation for two or three years, the individual whose property would have been damaged would have been taken and diverted for uses other than his own, has to remain out of the use of his money. I am opposed to that system. But, if the corporation that is seeking to take the property of the individual shall be told “thus far and no farther,” you will find that there won’t be a single case that will be in litigation for six months, but those corporations will proceed, as they will have the right to do, and they will force that question to an issue, when perhaps the power of an individual will be unable to accomplish that. If they should come against one of that class, he has assumed to say he had refused to make a just compensation, I take it, sir, that in that language he desires to say that railroads offer compensations that are just in every instance, and because men refuse to take them they are not just. Upon the other hand, my opinion goes in favor of the individual. I believe in nine cases out of ten that the individual whose property is to be taken for these uses is willing to make a sacrifice rather than to demand what is just, and I am in favor of this prevailing. I want to say to you that the Legislature have not done that in the past, and so far as I am concerned I am ready to cast my vote to place that restriction and say that they must do it in the future.

Mr. EICHNOR. Mr. Chairman, I am in favor of striking out the words “or damaged.” I gave my reasons particularly for it, but the committee thought differently. I am opposed to the amendment for several reasons; but the main reason I am opposed to the amendment is this: The Constitution of the United States says, “Nor shall private property be taken for public use, without just compensation.” That is the law of the United States. Now, why not have the same law in this State?

Mr. VARIAN. Will the gentleman permit me to answer him—because that was made a hundred years ago and it is found necessary by experience to change it.

Mr. EICHNOR. The amendment was not made a hundred years ago. Now, I am opposed to tacking on this proposition that compensation shall be first made, and I hope this committee will vote it down. I tell you, gentlemen, frankly, that if we sit here, day after day, and commence to improve on the Constitution, that the people, when they receive this Constitution, will vote it down.

Mr. HOWARD. Mr. Chairman, I am in favor of the language quoted by Mr. Eichnor from the Constitution of the United States, and I believe that language is incorporated in that substitute. I am also in favor of the last provision which reads, “And private property shall not be damaged for public use without just compensation, to be determined by a proper tribunal.” Now, that does not mean the damage must be paid for before it is done. It means that after the damage is done that a proper tribunal will take hold of it and assess the damage, and the party who did the damage shall pay for it. The first means that no property shall be taken until it is paid for. The other means that the damage shall be paid for after the damage has been done, and after the damage has been properly assessed. I believe the substitute will cover the ground of the objections made, and I think it ought to carry.

Mr. SNOW. Mr. Chairman, it is not often that laymen have interjected their opinions into the discussions that have taken place over the bill of rights, and I think the great majority of us would have been content to let the lawyers discuss these matters, inasmuch as they mostly pertain to law, but this is a question that vitally affects all the people. If corporations can be allowed to take private property for public use,

even if they say they shall have just compensation, without some manner to be indicated how that compensation shall be arrived at, I think that the rights of the individual will be infringed upon as the experience of the past has shown that they have been infringed upon. I am in favor of the amendment of the substitute. I should have liked to have seen it drawn a little farther and provide how the farmer whose right is taken from him should be compensated. I find that in California, Colorado and other states, that in their constitutions they have provided that the amount shall be paid into court for the owner before the right of way shall be appropriated. They have also provided, in some states, for a jury or a number of commissioners to decide what the damage or the compensation shall be before ever the right of way accrues. I think that that is just. It is humane, and I don't think any law ought to compel the farmer or the citizen to litigate for his natural, inalienable and indefeasible rights, and I think a right of property is just as useful, just as good, and just as near to the individual in many cases as life itself, for life is dependent upon those rights of property. I am in favor of the amendment or the substitute; I don't care which prevails, as I believe either will arrive at the point that we wish to see obtained.

Mr. CUNNINGHAM. Mr. Chairman, I am surprised at many gentlemen here in their remarks that they have made. We must have a very wicked people—people that own little pieces of land where the railway companies go through—and very holy, just, and righteous railway corporations. It must be all in favor of the corporation and nothing in favor of the people. Now, I believe people have rights, and we are here to protect the rights of the majority of the people and all the people, and I believe, as one of the gentlemen has said—although I believe on

the other side, that if we want this Constitution voted for we must protect the rights of the masses, even if it does not suit the righteous corporations.

Mr. MURDOCK (Wasatch). Inasmuch as this discussion has got down to the laymen, I feel that I ought to say a word or two, inasmuch as I disagree with the gentlemen that have spoken upon the question. As it has been stated by our legal men, the laws of Utah make provisions for damage to parties who are injured by railroads and by other corporations passing over their lands. I think we can safely trust this to the Legislature to protect the man, to protect private individuals from corporations trespassing upon them, but I think that if this substitute of the amendment prevails it will place an obstruction in the way not only of railroads, but of enterprises like irrigation companies. In my short experience, had this law been the law without any other legislation, it certainly would have stopped several irrigation companies from building their canals for three or four years, long enough to have prohibited the owners of the land from raising enough grain to have paid the expenses of building those canals. Now, I am opposed to the substitute and to the amendment, and I trust that this committee will vote them down, and that we will leave it in the hands of the Legislature of this future State to make such laws that shall be necessary for the protection of property owners.

Calls for the question.

Mr. THURMAN. Mr. Chairman, I don't know whether this committee desires to hear me or not. I made this motion and have not had a single chance to speak to it. I made it in good faith. I believe that the right of property is a sacred right, and no matter if it is the widow's mite, I believe that the man who owns just one little ewe lamb has just as much right to that as the man has to his cattle that

graze on a thousand hills; having a sacred and absolute right to his property, having paid for it and the company owner; it may be his home—it may be all he has and the proposition here now advanced is that a railroad company may come along and stake out this lot and tell him to get off and await the slow process of the law in litigation; and we know what it is when you come to litigation with the railroad company; they just simply have the advantage at every turn. They have their attorneys paid by the year; they have money to bring forward all the witnesses they want, and to secure every advantage that the law possibly gives. And if delay is of any benefit to them in that case they insist on the delay and they get it. In the meantime, the man is deprived of his property, his home is taken away from him, and because his home is only a matter of three or four hundred dollars—it did not amount to much anyway as the gentleman from Salt Lake in front of me here intimated, very much in the language of a corporation attorney—it was not worth anything anyway—land that was not worth a cent. Now, the facts are, gentlemen, that this proposition will not retard the development of the country. It will not retard the progress of the country, but as suggested by one of the gentlemen on this floor if railroad companies understood that they must determine this compensation in advance, they will see to it that instead of ceaseless and endless litigation, they will be anxious to bring their cases to the front, if it comes to a case, and have them disposed of, and if a man does ask them what they may think is a little bit extraordinary in its terms, had not they better, in view of the fact that they had this extraordinary right to take away a man's property, without his consent—had not they better pay a paltry sum even in excess of the value and go on with

their work, than to have the poor man kept without the use of his property and sitting by and seeing another man reveling in the possession of it, while he has not anything in return for it? Now, Mr. Chairman, I am about as much surprised as my colleague from Utah County to hear men talking just as if this provision of the law which stands to-day in two-thirds of the modern constitutions in the United States was an innovation here. As if the progress of the whole country was going to be stopped, because we want to get into the Constitution a provision which says that before a person using the power of the State can take from a man the property that belongs to him he must first pay for it. I say there are two-thirds of them. I will not take the time to read the clauses in the various constitutions, but nearly all the modern constitutions provide that this payment must be made in advance; and I believe the constitution in the state of Washington has been referred to more than any constitution in the United States—has been referred to more by members on this floor than any other constitution, and I am going to read that paragraph as it will only take a moment:

Private property shall not be taken for public use, except for private ways of necessity, and for drains, flumes, or ditches, on or across the lands of others for agricultural, domestic, or sanitary purposes. No private property shall be taken or damaged for public or private use without just compensation having been first made or paid into court for the owner, and no right of way shall be appropriated to the use of any corporation other than municipal, until full compensation therefor be first made in money or ascertained and paid into court for the owner.

Now, I ask what could be more just than that? That is all that is demanded in this, and gentlemen, it does seem to me for the protection of the individual as against corporations we ought to vote for this amendment.

Mr. JAMES. Mr. Chairman, I rise to

a question of personal privilege. I have been misquoted on this floor and I want to correct it. Mr. Thurman gave the idea that I had stated that a man's home was worth nothing, etc. If I said anything of the kind, I did not mean it. I cannot believe that I said anything of the kind. Mr. Thurman knows very well that when I spoke about a worthless piece of land, I was speaking about undeveloped, unimproved land in these canyons, and he knows very well that I meant this—

Mr. THURMAN. I object to the gentleman making an argument under cloak of personal privilege; he can not do that.

The CHAIRMAN. Under the rule the gentleman has a right to speak as many times as he pleases and as long as he pleases.

Mr. JAMES. That is the very reason why I inferred that this matter should be left to the Legislature, because we have these different kinds of land, and these different conditions of things existing here so that provision should be made without hardship to the railroad or without hardship to the settlers and the inhabitants.

Mr. BUYS. Mr. Chairman, if the amendment of the gentleman from Utah includes, as he indicated, the payment in advance for the lands, I am in favor of it. I am in favor of provision being made where property is taken for public use that the money shall be paid to the owner or to be paid into court for his use. If the amendment by the gentleman from Utah would secure this, I would vote for it, but as it is, I hardly think that it would,

Mr. THURMAN. The substitute does; for the information of the committee I will say that I expected the substitute to be in lieu of the amendment that I proposed.

The secretary read the substitute proposed.

Mr. BUYS. That is all right. I will accept that and I think it is just right.

Mr. RICHARDS. Mr. Chairman, I desire to call attention to the fact that that amendment does not meet the objection that has been made. It does not provide that the money may be paid into court in case of taking property. As I understand it, it is an absolute requirement that compensation must be made before the property is taken, but in case of damage, then the money may be paid into court. Now, I say that if this amendment prevails at all, there ought to be a provision that the money may be paid into court in every case. In other words, that the property may be taken by paying a compensation to the owner or paying the money into court, and that is not this amendment.

Mr. VARIAN. It seems to me so.

Mr. RICHARDS. Not necessarily.

The CHAIRMAN. The amendment first offered by Mr. Thurman is withdrawn from consideration and the only question before the committee is the substitute just read.

Mr. RICHARDS. Mr. Chairman, I offer as an amendment to the substitute the insertion of these words, "or paid into court for the owner," after the words "first made."

Mr. THOMPSON. I will second the amendment.

Mr. EVANS (Utah). Mr. Chairman, I am opposed to that amendment for the very reason that it places the matter in the very same condition that it was before. The corporation can pay money into court. They can go to work and plow up the man's land, tear down his house, turn him upon the street, and wait along three years before it is determined whether they are to have that money or not. That is the reason I am opposed to it.

The amendment of Mr. Richards to the substitute was rejected.

The substitute was adopted.

Mr. VAN HORNE. Mr. Chairman, I call attention to the fact that the Con-

vention resolved itself into committee of the whole until 5 o'clock.

The CHAIRMAN. The gentleman is mistaken; as the chair understands it, the motion to fix a definite time was changed.

Mr. VAN HORNE. Mr. Chairman, before going any further I want to move an amendment to section 23, to insert at the end of the section as amended, a declaration of public use. I move to insert at the end of the section the following:

Public use shall include dump, mill, and tunnel sites upon and easements over and across the lands of others for tunnels, roads, tramways, reservoirs, waterways, water supplies, and drains, for agriculture, mining, milling, municipal, domestic and sanitary purposes; and such other public uses as the Legislature may declare.

The amendment was rejected.

Section 24 was read as follows:

Section 24. Private property shall not be taken for private use unless by consent of the owner, except for private ways of necessity, and for reservoirs, drains, flumes, or ditches, on or across the lands of others, for agriculture, mining, milling, domestic or sanitary purposes, and in no case shall such property be taken without due compensation.

Mr. VARIAN. Mr. Chairman, I move to strike out the entire section.

Mr. VAN HORNE. Mr. Chairman, I was going to move as an amendment to that that the amendment I propose be inserted in place of the section.

Mr. KIMBALL (Weber). I second that.

Mr. VARIAN. That presents substantially the same question that was presented on his motion to strike out. Now, it will be observed that this section contemplates the taking of private property for private use. There is no question here of a public use. Of course the proviso in the second line of the section amounts to nothing. Of course private property can be taken for private use by consent of the owner;

that simply amounts to the right of contract, which we have anyhow. But, the objectionable feature of this is in the exception "except for private ways of necessity," etc. That is very far-reaching, Mr. Chairman. That simply amounts to this, that if I have a lot or a farm, and my neighbor deems that it is necessary for him to have a private way across it without reference now to the public use, without reference to whether it is necessary for the convenience and benefit of the public, which comes in under the other section prior to this, he is entitled to go into court, if I don't choose to allow him to go upon my land, and proceed to condemn it, because it is in the organic law, and I am compelled to surrender my right; not for the benefit of the public, not for the good of the community as a whole, but for the benefit of my neighbor, and I would like to know why he stands in any better position than I do in that particular. If there is anybody to be inconvenienced it should be the one who had not the vested right of property; I have it, it is mine, it belongs to me, it is vested in me, it is protected, not only in the Constitution in other sections, but by the general law underlying all constitutions. The right of eminent domain is founded upon necessity. It has never been and ought never to be accorded in anywise to any individual; it is only accorded in the name of the State upon the fears and assumption that the good of the entire community is the supreme law, and the rights of individuals must yield in order that the rights of the whole may be benefitted. That principle does not apply here. You are opening a wedge, you are invading the rights of the private citizen in these particulars named. Where are you going to stop? Under this section, gentlemen of the committee, I can go upon your land if it adjoins mine, I can make use of it for domestic purposes; I can build an outhouse or a kitchen there, I can put a cesspool upon

it, upon my showing to the court or the jury that it is necessary for the convenience of myself. Do you want that? Whoever drafted this has interpolated a provision as to mining in order to cloud it a little. There is no question now in this country about mining being a public use. It is so recognized in all the mining states and territories. The legislatures declare it so, courts have upheld it. This matter of a public use ought to be maintained just as it was entitled or just as it means,—a use for the public. If it be necessary to develop the mines to get a right of way on another man's lands, to secure a dumping ground, as the law now stands, as it has been construed in all these mining states and territories, by the legislatures and the courts, it is deemed to be a public use. I lay no stress upon that word "mining" there, because it would be included in section 23 if the Legislature so declared it. Agriculture ought not to be deemed a public use; it is not a public use in the sense of the law of eminent domain. One farm is as good as another. The farm of forty acres is just as good and sacred in the eye of the law, and ought to be, as the farm of three thousand acres, whether it be used as a range or for wheat growing or grain raising. Underlying it all is the fact that it is an innovation, invading the vested right, that ought not to be lost sight of here. As the law now stands, private ways of necessity as indicated by the courts in certain classes of cases, are given; that is to say, if you sell a man a piece of your land and the situation of the land that you sell is such to the land which you retain that it is necessary for that vendee to cross your land to get out, the implication of law is, and it is so held—it is the law of real property, that you have conveyed to him the right to go out over your land; but if he goes and buys somebody else's land adjoining you, settles himself down there to build up a home or a farm, he takes it as he finds

it and he is not authorized to cut your farm up with a water ditch because he needs to get water on his land, nor to cut your farm up with a private way, because it is more convenient for him to cross it, and it should not be so, because you simply transfer a right from one to the other, and so far as the State is concerned, it is a difference between the two individuals. He must take the situation as he finds it. I can imagine cases under this law where a man's farm can be cut in two with a big water ditch and every time he runs his plow or his harrow or reaper up there, he would have to stop and turn around or get a bridge and jump his horses across. It is not right. The same application can be made of it in cities and towns. Going back to the first proposition, though, the main and the serious objection to it is that it is an interference with vested rights and you had better leave the disposition of property rights, except where the State is interested and concerned, to the subject of contract between the citizens of the State.

Mr. PIERCE. Mr. Chairman, I would like to ask Mr. Varian a question before I make any remarks. Mr. Varian, do you maintain that the right to build irrigating ditches is a public use?

Mr. VARIAN. No, it has not been so declared here.

Mr. PIERCE. Is the right to build reservoirs—

Mr. VARIAN. Let me qualify that and answer the full question. If the system of irrigation shall assume such proportions here as to necessitate a thing of that kind and the Legislature should declare it, I doubt not that it would be held as it was in the case of mining, after some difference of opinion among judges, that because of the situation of the community and because of the prominence of that particular branch of industry in the community, it had become on the line of the building of the railroads and other great public enterprises and public uses.

Mr. PIERCE. Mr. Chairman, I want to make a few remarks upon this proposition. I agree in some points with the remarks of the gentleman from Salt Lake County, that this section as it stands invades the rights of private property and I think we should well consider the amendment made by Mr. Van Horne. The voting down of the amendment to section 23 I believe was done without very much consideration. The section as it stands I am not in favor of it; it says, "except for private ways of necessity." It has been argued by gentlemen who have preceded me that the law gave a man a right by necessity. That is all right, I believe that. That is the correct principle of law, "for reservoirs, drains, ditches, etc."

It seems to me that the Convention should protect the rights of irrigation as much as any one thing that they should protect. As it was well argued on the floor of this house not long ago by the gentleman from Wasatch, that the prosperity of a community depends upon the rights of irrigation, and if it is not a part of our system of law that the right of irrigation and the right to build canals is a public use, then, gentlemen, we ought to make it a public use right here and now; and I differ from the remarks made by the gentleman who has just preceded me upon the proposition that the right of condemnation for mining property is a public use. Some states have held that the right to condemn property for mining purposes was a public use, but the majority of the states hold that it is not a public use and that it cannot be condemned under such a clause as we have in section 23, which we have adopted. I have before me a collection of cases by Lewis on Eminent Domain, upon that proposition, and I desire to read some selections from the work so you gentlemen can see just the drift of the current of the decisions that the gentleman upon the other side has referred to. It is true, gentlemen, that

Nevada had said that the right to condemn property for the benefit of mines was a public use and existed under the ordinary clause in their constitution, as we will have in ours, that private property shall not be taken or damaged for public use without just compensation, but there are several other states that hold that that is not the law. Those states are California, Pennsylvania, West Virginia, and some others, and the whole practice is approved by Lewis in his work on Eminent Domain. I would like to read from section 184:

The tendency of those decisions which sustain the mill acts is illustrated by some cases now to be noted.

The mill act was the right to dam up a stream and set the water back in a pond to create water power.

The legislature of Nevada passed an act in which it was declared the production and reduction of ores are the vital necessity to the people of this state, are pursuits in which all are interested, and from which all derive a benefit, so the mining, milling, smelting, or other reduction of ores are hereby declared to be for the public use and the right of eminent domain may be exercised therefor.

That is the language of the legislature of Nevada. In Nevada the law was sustained and under that law the supreme court of Nevada in the case of Daton Mining Company vs. Sewell held that the right of eminent domain existed in favor of the mining companies, and in their opinion there is some language which seems to be worth reading.

(Reading):

In the light of these authorities, nearly all of which were decided prior to the adoption of the state constitution, I think it would be an unwarranted assumption on our part to declare that the framers of the constitution did not intend to give the term "public use" the meaning of public utility, benefit, and advantage, as construed in the decisions we have quoted. The reasons in favor of sustaining the act under consideration are certainly as strong as any that have been given in support of the mill dam or flowage acts, as well

as some of the other objects heretofore mentioned. Mining is the greatest of the industrial pursuits of this state. All other interests are subservient to it. Our mountains are almost barren of timber and our valley lands could never be made profitable for agricultural purposes, except for the fact of a home market having been created by the mining developments in different sections of the state. The mining and milling interest gives employment to many men, and the benefits derived from this business are distributed as much and sometimes more among the laboring classes than among the owners of mines and mills. The mines are fixed by the laws of nature and are often found in places almost inaccessible. For the purpose of successfully conducting and carrying on the business of mining, smelting, or other reduction of ores it is necessary to erect hoisting works, to build mills, to construct smelting furnaces, to secure ample grounds for dumping waste rock and earth, and a road to and from the mines is always indispensable.

Then he goes on to say that the public utility is so great that the state of Nevada has said that the right of eminent domain exists in favor of mining property. But, gentlemen, that is a disputed question, and I believe that is the question that this Convention wants to adopt. We want to declare that the mining industry is for the public benefit, and we should treat the mining industry as a public use. We do not, I believe, in that section we have adopted, adopt this. And it cannot be so construed unless we are particular to declare it in the Constitution. That decision was followed by a decision in Georgia. Lewis on Eminent Domain further says:

On the other hand the validity of such laws has been denied in California, and Pennsylvania, and virtually so in West Virginia. This is undoubtedly the correct view.

Now, gentlemen, it seems to me that we should either amend this section so that the right of eminent domain will exist in favor of mines for tramways, public grounds, tunnels, etc., or else we should amend section 23. I do confess that there are some pernicious clauses in section 24 and I am not in favor of it

as it stands. It seems to me no harm will ever come to this State by reason of declaring in our Constitution that the mining industry is a public use. You know that the mines are situated in our mountains here and it is very rarely that any agricultural lands will be taken or any kind of agricultural rights will come up when the question of the right to condemn land for mining purposes for dumps or tunnels or tramways is in question. And then again, you know, gentlemen, that where one mine wants to pass over other ground and it does not injure it—the value of the mine is, by reason of the value of the ore underneath the ground. I am not in favor of striking out the section, but of amending it so that it will contain these provisions or amend section 23 so that it will also contain them.

Mr. VAN HORNE. I am in favor of striking out the section providing for private property to be taken for private use. I do not think it is right. I do not think it is a safe thing to do, to go into taking private property for private use, but I do think that accompanying that it is wholly in line with the good of this Territory and with the good of the people of this Territory and all the people of this Territory that we should make a declaration of public use for public industries in such ways that our courts will not be at liberty to construe them against the uses and industries of our people. I think that the amendment that I propose does that. I do not know whether it had a second or not, but I can use it for the sake of argument. It provides for their condemning a dump, a mill site, or a tunnel site, upon the land of others, and only an easement over or across the lands of others for those ways for waters, roads, tramways, etc. It seems to me that we cannot err if we give our people the right for the good of the public to say to the man who has property and who is unwilling that others should use it to pass over that, "by your being paid a just

compensation, it is for the public good that you should not be privileged to say we cannot pass this way, or you cannot come through my land with your irrigation ditch, with your tramway; you cannot take a corner of my land for an aqueduct, for a mine; you cannot take a ravine in my land, that I do not use, as a site for a tunnel." Nobody wants this to be done without the man being paid a just compensation for it, but I believe we can well afford to declare that the citizen who is so unreasonable in his use of his land that he will not allow it to be used for a great public purpose, such as mining and irrigation schemes, tramways, roads, reservoirs, as are going to be in this country—that he will not allow it to be used by his consent on the payment of just compensation, that we, representing the people, would have a right to say to him, "You cannot act that way to the detriment of all of us. If you will not take the just compensation when it is offered, we will bring you in a suit saying this is for the good of you and the rest of them, and upon paying you the just compensation by the court, we will compel you to let that land of yours be used for the public good." I think we would do injury to our constituents if we did not declare so that our courts could not construe against it, what would be public uses of the lands of another. I believe it is right that a man who owns land near where another man owns a mine and has land that is suitable for a dump which is not used by him, should be compelled to say that upon taking a just compensation for it, it may be used by the other man and should not be entitled to say regardless of what use might be made, "you want to have the land and you have got to have it, and you shall not pay me a just compensation, sir, but you shall pay me whatever I ask."

I believe it is also right that in this country where there will be great irri-

gation enterprises, needing reservoirs to hold the waters in our canyons, the public should say to the man, "You cannot say, because you have a hole that might be made a reservoir out of, that is no use to you now, but that would be of use to a reservoir company—you cannot say to them, gentlemen, I won't take a just compensation for this, your company is going to invest a million dollars, I want two hundred and fifty thousand dollars for the hole the water is going to be banked up in." I believe that we would be derelict in our duty if we did not say to him, Sir, you cannot do that." But we ought to say to him, in my opinion, "When you have a suitable site for a reservoir not in use by yourself and are unwilling to sell it for a just compensation, that the company who is going to reclaim thousands of acres of land have a right to bring you into court, sir, and say to you what is the just and reasonable value of your property, to determine the matter and condemn it for the use of the public."

Gentlemen talk about invasion of private rights. We do not have much difficulty practically about it now. One man owns a farm here and another one has to bring his ditch through it; he goes to his neighbor and says, "I will pay you all the damage for that ditch," his neighbor says, "all right, go ahead." We are just simply declaring against the man who happens to be more arbitrary than most of the people of Utah and saying if he won't do what is reasonable, that he can be made to do what is reasonable. Take our valleys, dry, without irrigation they are worthless; with irrigation they pour into our State a continual product. Shall the man that has a piece of land across a canyon from which water is to be brought say, "Gentlemen, before I will let you take an irrigation ditch through my land that will enable forty thousand acres to be brought under cultivation, you must pay me half the

value of the forty thousand acres, when the water is put upon them?" Would that be a proper thing for this Convention to allow? Would not it be proper for this Convention to prevent such a man from saying that he would ask an enterprise of that kind anything more than a just and fair compensation for the land that was taken and damage that was done by such enterprise? It seems to me, gentlemen, that if we pass from the consideration of this question without making some provision that will protect people in enterprises of this kind we will go back to our constituents and when they ask us why we did not do this, we will have to be ashamed to say, we did not do it because we did not think that it was a public use and for the public good.

Mr. SMITH. Mr. Chairman, to my mind we have struck no proposition of this bill of rights up to this time that should receive the grave consideration that this proposition now presents. Ours is a very peculiar country and I see that the committee have copied almost literally Wyoming upon this proposition, and I trust that before any immediate action shall be taken looking to the striking out of this section the greatest care will be given. It seems to me, as gentlemen on the floor have explained in regard to the mining interests, the same proposition affects our irrigation interests in this section of country. Our farms, as a rule, it is true, are usually small. We have got to cross each other's farms in order to carry our irrigation on properly and raise crops at all, and if this section be stricken out, it is going to leave us in the most defenceless condition, in my judgment, and I trust the motion to strike out will not prevail, but that further consideration of this proposition will be taken.

Mr. VARIAN. Let me ask the gentleman a question. He will observe that this matter proposed to be stricken out includes many things. If as

suggested, it is the sense of the Convention that they want to put in a clause protecting irrigation, mining, it might be put in a proper way separately, but this includes sanitary purposes, domestic purposes, private ways of necessity, etc. It includes too much.

Mr. VAN HORNE. Mr. Varian, the amendment I suggested did not state the private ways of necessity.

Mr. RICHARDS. Mr. Chairman, this is a very important subject and I do not believe that this committee can act intelligently on this amendment without having it printed. I am not in favor of the section as it stands. I think it ought to be printed. Probably a substitute ought to be adopted, but it is a matter of such importance, I think we ought to postpone further consideration of it until we can have the amendment printed and consider what language we will adopt, if we are going to adopt a substitute or what amendment we will make. If it is in order, I would therefore move the postponement of the further consideration of this section until the further meeting of this committee.

The CHAIRMAN. The chair rules that a motion to postpone is out of order in committee.

Mr. EVANS (Utah). Mr. Chairman, I move we now arise and report.

The motion was agreed to.

The committee of the whole then arose and reported to the Convention as follows:

The committee of the whole have had under consideration the preamble and declaration of rights and have considered the same and desire to report progress and ask to sit again.

The Convention then, at 5:35 o'clock p. m., adjourned.

TWENTY-THIRD DAY.

THURSDAY, March 26, 1895.

The Convention was called to order by the President at 10 o'clock a. m.

The roll was called and the following named members were found in attendance:

Adams	Larson, L.
Allen	Lemmon
Anderson	Lewis
Barnes	Low, William
Bowdle	Low, Peter
Boyer	Low, Cache
Brandley	Lund
Button	Maeser
Buys	Mackintosh
Call	Maloney
Cannon	Maughan
Chidester	McFarland
Christianson	Miller
Clark	Morris
Coray	Moritz
Corfman	Murdock, Beaver
Crane	Murdock, Wasatch
Creer	Murdock, Summit
Cunningham	Nebeker
Cushing	Page
Driver	Partridge
Eichnor	Peters
Eldredge	Peterson, Grand
Emery	Peterson, Sanpete
Engberg	Pierce
Evans, Weber	Preston
Evans, Utah	Raleigh
Farr	Richards
Francis	Ricks
Gibbs	Roberts
Goodwin	Robertson
Green	Robinson, Kane
Hammond	Robison, Wayne
Hart	Ryan
Haynes	Shurtliff
Halliday	Snow
Heybourne	Spencer
Hill	Squires
Howard	Stover
Hughes	Strevell
Hyde	Symons
Ivins	Thompson
James	Thoreson
Johnson	Thorne
Jolley	Thurman
Kiesel	Van Horne
Keith	Varian
Kearns	Wells

Kerr Whitney
Kimball, Salt Lake Williams
Kimball, Weber Mr. President.
Lambert

Prayer was offered by Elder M. B. Shipp, of the Church of Jesus Christ of Latter-day Saints.

The journal of the twenty-second day's session was read and approved.

Mr. Preston was excused by request.

Mr. Maeser presented a petition, signed by fifty citizens of the fourth ward of Provo, praying for an article on prohibition to be inserted in the Constitution.

Referred to the committee on schedule, future amendments and miscellaneous.

Mr. Partridge presented a petition, signed by John Styler and forty-five other citizens of Provo, asking that an article on prohibition be submitted to the people for a separate vote.

Referred to the committee on schedule, future amendments and miscellaneous.

Mr. EICHNOR. Mr. President, I move that we resolve ourselves into committee of the whole for the consideration of the preamble and declaration of rights.

The motion was agreed to.

The Convention then resolved itself into committee of the whole, with Mr. Thurman in the chair.

COMMITTEE OF THE WHOLE.

Mr. HART. Mr. Chairman, I would like to have read the substitute that Mr. Van Horne, of Salt Lake, offered to section 24.

The CHAIRMAN. I think there was no substitute offered to section 24, there was an amendment proposed to section 23.

Mr. SQUIRES. I understood Mr. Varian to move to strike out the section. Mr. Van Horne moved to amend that by substituting that which he had offered as an amendment to section 23.

Mr. VARIAN. Mr. Chairman, I sub

mit the question before the committee is the motion to strike out. I apprehend if that is carried, it wouldn't preclude the offering of another matter.

The CHAIRMAN. If you raise that point of order the chair will sustain it.

Mr. Hart moved to amend the section so that it would read as follows:

Private property shall not be taken for private use unless by consent of the owner, except for reservoirs, drains, flumes or ditches, on or across the lands of others, for agriculture, mining, or milling purposes, and in no case shall such property be taken without due compensation.

Mr. VARIAN. Mr. Chairman, on the principle that it is desirable to perfect an amendment as nearly as may be in the event of its carrying, I offer an amendment to the amendment by striking out the word "private" and inserting the word "public," in the second line, so that in case this amendment should be adopted we would not be in a position of permitting the law of eminent domain to be diverted to private use, but that it can declare the uses mentioned by the gentleman from Cache to be public uses, which I understand is the substance of the article of the gentleman opposed to the motion to strike out of yesterday.

Mr. PARTRIDGE. Mr. Chairman, I have a substitute, which I wish to present to this section:

Private property shall not be taken for private uses, except for uses, which in their nature may be considered of a public benefit, and in no case shall private property be taken without due compensation shall first have been made.

Mr. VARIAN. I submit, Mr. Chairman, that this is an equivalent motion to the original section.

The CHAIRMAN. I think it is in order to offer the substitute, it may be equivalent in meaning, but the language is different, and it goes to the question of phraseology.

Mr. PARTRIDGE. We had consider-

able discussion here yesterday in regard to taking property for public uses without just compensation being first made, and I was in favor that it should not be done. Neither am I in favor that private property should be taken for private uses without just compensation having first been made. I concede that it would work a great injury to individuals; I do not wish to go over the ground that was gone over yesterday, gentlemen, upon a similar subject, but I can conceive of instances where it would work a great injury if the right were not conceded to take private property in some way, in some manner, and in case where it might be construed as a public benefit, although not literally or legally a public use. In case of water ditches, that are calculated to benefit perhaps a good many acres of land, it would result in a public good. At the same time I want to guard the private interests of individuals that they should not be robbed of their property without having compensation first made to them, without their having to await a long process of a law suit, which they are not able, perhaps, to carry on; that is the position I take on it.

Mr. ANDERSON. Mr. Chairman, I would object to the amendment of Mr. Hart for this reason, I think the public would want to use property for other purposes than that mentioned in this connection. Now, suppose the public would want to use property for roads or streets, etc., or any other use, it seems to me that the way this section is now worded that the public would not obtain private property for those uses; therefore, for that reason, I would object to it.

Mr. EICHNOR. Mr. Chairman, I am in favor of the section as it stands, this is the law in the state of Wyoming. It is in the constitution in the state of Washington. Now, Wyoming and Washington have been states since 1889; these dire calamities of which our friend Varian spoke, of building outhouses and

chicken coops on the neighbors' premises have not occurred in those states. Those states are well governed. On the other hand, if you wish to change it, then I would be in favor of changing it according to Idaho and Montana. Idaho and Montana declare certain uses as public uses. The bill of rights of Idaho reads:

The necessary use of lands for the construction of reservoirs, or storage basins for the purpose of irrigation, or for rights of way for the construction of canals, ditches, flumes, or pipes to convey water to the place of use for any useful, beneficial, or necessary purpose, or for drainage, or for the drainage of mines or the working thereof by means of roads, railroads, tramways, gates, tunnels, shafts, hoisting works, dumps, and other necessary means to complete the development, or any other use necessary to complete the development of the material resources of the state, etc.

Mr. VARIAN. Will the gentleman read where it declares it to be a private use?

Mr. EICHNOR. The declaration of rights of Washington provides that private property shall not be taken for private use, except for private ways of necessity and for drainage, flumes, or ditches, on or across the lands of others for agriculture, domestic, or sanitary purposes.

Mr. VARIAN. What does Idaho say?

Mr. EICHNOR. I read Idaho. Wyoming provides that private property shall not be taken for private use, unless by consent of the owner, except for private ways of necessity, and then it goes on in the same language as section 24 here.

Mr. CREER. The present section is an exact copy of Wyoming.

Mr. EICHNOR. Yes, sir. Section 15 of the declaration of rights of the state of Montana provides that the use of all water appropriated now or that may hereafter be appropriated for sale, rental, distribution, or other beneficial use and the right of way over the land of others for all ditches, drains, flumes,

canals and aqueducts necessarily used in connection therewith, as well as the sites for reservoirs and necessary for collecting and storing the same, shall be a public use, and that private roads may be opened in the manner to be prescribed by law, but in every case the necessity of the road and the amount of damage to be sustained by the opening thereof shall be first determined by a jury, and such amount, together with the expenses of the proceedings, shall be paid by the person to be benefitted. Now, Mr. Chairman, there are two views, they all tend toward the same thing. One is to declare these uses a public use, the other is to embody right in the section a declaration that private property shall not be taken for private use, and then the section goes on and enumerates for what purposes it may be taken for private use. I am in favor of the section just the way it stands, and I think Wyoming and Washington have not been ruined. No one has been injured by having that section in the declaration of rights.

Mr. CREER. Mr. Chairman, there is one condition that has not been referred to, which I desire to draw attention of the committee to, that is why I am in favor of the section as it stands. That is, that private property may be taken for private roads. I find that New York has a provision that private roads may be opened in the manner prescribed by law, but in every case the necessity of the road and the amount of all damage to be sustained by opening thereof, shall be first determined by a jury of freeholders and such an amount named with the expenses of the proceedings shall be paid by the person to be benefitted.

Now, in the near future the probability is that a great many of the canyons will be taken up as private claims under the grants that have been provided by the government, and it will work a great hardship if the private roads could not be established or ac-

quired over that land. If it should necessitate the use of a county or public road, the people would be prohibited from going through these canyons to obtain timber or coal or such property as there is in the mountains, and I think it is absolutely necessary that the provision should remain as it is in this section or as provided by New York and other constitutions; that not only ditches—that are certainly absolutely necessary for drainage and for carrying water over the private lands of others—but for private roads; I would be in favor, however, of the motion of the gentleman from Cache—adopting what he has suggested simply by striking out “for sanitary or domestic purposes,” but for everything else I think the section covers, that should remain in there to conform to the necessities of the present, and of the near future. Therefore, I am in favor of the section as it stands. There can be no question as to the necessity for drainage. In the neighborhood where I come from the irrigation of the upper bench land which will increase materially from what it is at the present time—why, the lower lands are soaked with water and there must be some way of draining those lands. It will be absolutely necessary. Nearly one-sixth of our city has been made almost useless by the soakage from the upper lands, and therefore the necessity is obvious that we must have an opportunity of draining those lands and crossing private lands that may be adjoining. It seems to me, gentlemen, that there is no necessity for transforming this into a public use. It is a distinction, it seems to me that is not necessary. The precedent is established by New York. Allow me to read a little further: “General laws may be passed permitting the owners or occupants of agricultural lands to construct and maintain for the drainage thereof necessary drains, ditches, and dykes upon the lands of others.” They provide

that general laws may be passed, therefore, I am in favor of it—not having to depend upon authorities or precedent, but put it into the fundamental law that these rights may be preserved to the private citizen.

Mr. ELDREDGE. Mr. Chairman, I realize that if this measure is properly arranged it will add materially to the development of the resources of this incoming State of Utah, and if it is improperly arranged, it will work great disadvantages to the accomplishment of such ends. Perhaps what might apply to the state of Washington or the state of New York would not apply to this intermountain region. We are somewhat differently situated in regard to the questions that are here involved than either of those states are. And consequently, I feel that it is not within the line of reason that we should look to either of those for precedents with which to guide us in our deliberations in this matter. I can see that should this remain as we now find it, where it would work a great hardship to many sections of this country without furnishing an equivalent thereof—I can cast my eye upon my own county and under these provisions I can see that parties that might wish to establish a reservoir, and so locate as to submerge many farms, that are now improved and that are yielding sustenance to the family, and that they would destroy the rights of private citizens or a number of private citizens in order to build up and foster the rights of other private citizens, a measure which I consider is too insignificant for us to consider for one moment; I think that the rights of one person, let them be ever so small, should be just as sacredly guarded and maintained as the rights of any other individual, irrespective of its size, when you come down to the individual rights; still I think there should be a way provided by which these measures can be attained when it is in the interest of the public welfare, and, therefore I am

opposed to the section as it stands now; and I am opposed also to the substitute that was offered by the gentleman from Utah, and I would favor it so far as it goes, the amendment of the gentleman from Cache, but with a view that it would still be amended until it had reached that which would in our judgment be the nearest to the wants and necessities of the people at large. "Private property shall not be taken for private uses unless with consent of the owners," so far very good, if they would only stop there. "Except for private ways of necessity and for reservoirs, drains, flumes and ditches."

Supposing that the people of Salt Lake went down here to Utah County and raised the dam which is at the line between Salt Lake and Utah County, if this went into effect, they would have a perfect right to do that, and submerge to that extent the adjoining country. They could do it on the ground that they were doing it for a reservoir, and under this they would have a right to do it, and those people could only seek redress in the form of compensation. It is putting the liberties, it is putting the privileges and rights of one class of citizens at the mercy of another class in a private sense; a measure which we should strictly guard. I can see that where in the mining industry there can be a great many obstacles thrown in the way that would work injury unto legitimate enterprises, by persons that were designedly operating for the purpose of extorting money from those that were following a legitimate purpose. It is a very broad field to look over; it is not only the domestic, it is not only the agricultural, but it includes the mining, and it should draw out the thought of the agriculturist, and of the miner, and of the man that favors corporations, and in fact of every branch of industry that is characteristic of the country in which we live. I think that those words should be supplanted with the word "public," not only in the second,

but also in the third, and that it should be arranged so as to provide that this work could go on, when it is for public benefit. I shall favor the amendment that was offered by the gentleman from Cache.

Mr. CHIDESTER. Mr. Chairman, I am in favor of the section as it now stands. I do not believe that any law can be passed in this connection, which, if it was administered arbitrarily, would not work a disadvantage to some one. Now, while my friend, who has just spoken, is situated as he says in his county, I can point out numerous cases in my own county that would work the opposite, and I believe that in the interests of the poor man the section as it now stands should be his interests. I believe that if I owned a quarter section of land, and my land, for instance, is on the main water ditch or canal, another man below me owns a small farm, we will say, and he is not able to pay for his right of way, right at once, now, I know a number of that kind of cases, and I also know of a similar company that has endeavored to make a road for the benefit of the public, and there was no fund, and the road was a necessity for the greater portion of the settlement, yet, under this as was proposed, they would be debarred from making that road—a road which they must all use, and they could not haul their products out of their fields until it was made. They would have to wait and raise the means and pay for this before they could use the road. Now, while it worked to his interest the other way, I think that the general good—it would work to better satisfaction to have the section as it now stands.

Mr. VARIAN. I believe that we are playing at cross purposes perhaps. The only vital objection I make here, and those who are in accord with me, is in overlooking the distinction between a private and public use. We do not object if it be the sense of this people to

declare mining, milling, and agricultural purposes as public uses, if you want to put that into the Constitution. The objection is that this section declares it a private use, entirely obliterating the distinction between public uses and private uses. Now, let me illustrate that by the suggestion made by Mr. Creer, from Utah County. The very statement of a possible condition that he made indicates that the road there would be for the public benefit. It would be for the benefit of more than one person—a number of people. I doubt very much if the necessity should arise, even under the territorial laws, if a number of people in a community or perhaps a town, should use a canyon road for the purposes of getting out wood or any other purpose, or for the purpose of crossing the range and getting to their ranches, but what that would be a public use and the county or the Territory could open a road. No man could build a fence across it and say "I will defeat the object and purpose of the entire community." But with this provision in, one single individual, if he wanted to cross the property, and if it were convenient for him to have it established under the constitutional enactment, could do so. So as to ditches, so as to water rights, so as to mining. A large company, owning and developing a large mine, might want to take in a claim of the miner along side of its property. It is clearly a private use that it would be advocating, and under such a section as this, it could do it. I do not see any reasons why one man's property should be any better protected than another.

You have, in your opening declaration of the declaration of rights said, "All men have equal, inherent, inalienable rights, among others to acquire, possess and protect property." Of course that is subject to the good of the community. If it be necessary to take that property for public use, well and good; declare mining to be a public use, declare agri-

culture to be a public use, declare milling to be a public use, declare as the constitution of California has declared, all use of water now appropriated or that may hereafter be appropriated for sale, rental, distribution, is hereby declared to be a public use—not a private use, that is the objectionable feature that we have to this. It is not that it proceeds to speak for agriculture, for mining, for milling, and for reservoirs, drains, flumes, and ditches, but it is because it permits private individuals to advance their interests as against the interests of their fellow-citizens. Now, I have no objection to the amendment proposed by Mr. Hart, except, I do not think it ought to come in at this place. By implication if adopted it might confine the question of public use to those specifically mentioned in the amendment. What I apprehend is intended is that these particular uses, shall be declared to be public uses anyhow, leaving the subject open to the Legislature as to any other public use that may exist. It is not intended to confine the question to the particular limitations in the amendment as I understand it, is that right?

Mr. HART. Yes.

Mr. VARIAN. Therefore, if that be so, would not it be better to take the substance of the amendment offered by the gentleman from Cache and add it to section 23, which provides that private property shall not be taken or damaged for public use without just compensation first made? If you want another section, provide that private property may be taken for a public use in certain specified cases. Would it not by implication at least raise the question whether or not the Constitution did not forbid taking for any other public use? If you add to section 23 the substance of the amendment offered by the gentleman from Cache with the reservation that it shall not exclude any other public use, as public uses are understood now, at the same time, it would accom-

plish the purpose intended. For that reason I should oppose the amendment to section 24, without some qualifying or supplemental clause, as I have indicated.

Mr. EICHNOR. Mr. Varian, would not the same result be obtained by declaring it a public use as a private use?

Mr. VARIAN. No.

Mr. EICHNOR. You spoke about a mining company taking a miner's claim; if you declare mining a public use, the company can do it, can't they, the same as if we declare it a private use?

Mr. VARIAN. Is that all?

Mr. EICHNOR. That is all.

Mr. VARIAN. I will explain the distinction that I made and it is well settled. A public use contemplates something for the good of more than one person or one company. If mining shall be declared to be a public use throughout this Territory, it would be because the general development of mines—the general business and occupation, the explorations and excavations for the precious and other metals, from the earth would be declared to be for the benefit of the whole community. So of agriculture, so of the distribution of water and the getting of it from one place through long distances to the point of application of it. All these would be declared by the fundamental law, to be public uses, and the applications of the fundamental law would be upon well settled principles, first by the Legislature, second under the supervision of the courts, guided by the Constitution so that the property of the citizen would receive all the protection that it is possible under governments made by man to afford it, but if you put in private use any individual can say, "I want the private use of necessity here; I want to take my neighbor's mine; I want to run my ditch across my neighbor's field; I want to use his property for my domestic and sanitary

purposes; or I want to use it for my mill, for my drain," everything of that kind; do you not see, Mr. Chairman, that we are departing from the broad fundamental principle which would underlie all fundamental governments and that of necessity we are putting a contradiction in this declaration of rights to the first declaration that every man had a right to secure and possess and protect property, equal with his fellows; starting and keeping in his mind all the time that the very foundation of this taking of property is a use of necessity? That necessity is founded upon the good of the entire community, or a great portion of it as distinguished from the good and benefit one man or one individual should receive, and in answer to the gentleman from Summit County, my friend, Mr. Eldredge, in which he said that Mr. Hart had accepted my amendment, I say that the only objection I have to the declaring of agriculture, mining, milling, and such matters as drains, flumes and ditches, public uses is to the place where it comes in; and that it ought to have an addition expressly stating that that is not the only public uses for which the private property may be taken. The chair will appreciate the force of the suggestion without question. If his declaration shall be modified and presented so that it will exclude the Legislature from passing other public uses, why I have no doubt that it will be acceptable. Certainly as far as I am concerned, I see no objection to it. The objection I make to it now is if it comes in just that way, it will be a qualification and modification of section 23 in a way that I don't believe the Convention will maintain.

Mr. EVANS (Weber.) Mr. Chairman, by the courtesy of a member of the committee on preamble and declaration of rights, I secured that part of which they at that time had agreed to report to the Convention. At that time I discovered this article or section we are

now considering and conceived a deep seated prejudice against it; but the committee, before the article was printed, modified it in such a way that after a careful consideration of every word and every line in it, I believe the committee has shown great wisdom in reporting that section as they now have it before this committee. I see absolutely no danger in it. It is established by precedent that such uses as are mentioned in the section are proper uses for the advancement of any country or section situated as we are in this. I want to call the committee's attention particularly to some points in the section and undertake in a brief way to dissipate if I may some of the arguments made against it. I would like the committee to understand in the first instance that under this section it is not true and cannot be true under any sort of reasonable construction that any individual can take at will or at his own caprice the property of another individual, should he covet it or desire to take it. There must be first an adjudication of the fact that that use is a necessary use and the court would first determine it. If the court considering a question of this kind, should conceive the idea or if the evidence should develop the fact that one individual through mere caprice or whim for the purpose of designedly injuring his neighbors, wanted one of these rights of way across his neighbor's land, he could not exercise the right at all. The court would simply say, "This right, under the Constitution of the State, guaranteed to the people, does not mean any such thing as that, but it only means when it is necessary, that he should have the right—for what—for agriculture, for mining, for milling, for domestic or sanitary purposes."

Now, let us take for illustration one or two words in this section for the purpose of giving the committee an idea what it means. We will suppose that one individual has land so situated

that cesspools should form upon it—water which becomes stagnant, and which required for the good of the community at large and for the good of the neighbors in the locality that it should be drained from that land, and suppose it were impossible to drain it from that land without draining it across the land of his neighbor. Then, under this section, that right would be guaranteed. And if a court should find that it was necessary to drain off that land for sanitary purposes the court would give the right to that neighbor to cut a drain across the land of his neighbor, in order to conduce the sanitary conditions. The benefit is not to the individual alone, but incidentally it is a benefit to the public at large, and so it is with respect to mining. Ditches may be dug when necessary for mining or milling purposes along the land of another; and so it is for private rights of way. If it be necessary, mark you, the court would permit one person to have a private way across another's land. Why, gentlemen, this right is already granted, not constitutional, but in a court of equity. If a man's land is so situated that it is impossible to remove from it without going across the land of his neighbor, he can go into a court of equity and the court will grant that right. But we desire here to make the Constitution so that these things will be easier of access than to have to apply to a court of equity every time some such right should be secured.

Now, my brother Varian states that he has no particular objection to these words, but if they can be declared to be public uses, then the principle which we are reconsidering would not be violated in the same measure that it would be by the passage of this section. I would ask any reasonable minded man to tell me the difference. Suppose we say that agriculture, mining, milling, domestic and sanitary things—

Mr. VARIAN. That is stricken out.

Mr. EVANS (Weber)—are public uses, suppose we say that.

Mr. VARIAN. That is not under discussion.

Mr. EVANS (Weber). I did not know that that was stricken out.

Mr. VARIAN. Yes, in the amendment it is stricken out.

Mr. EVANS (Weber). I am opposed to all amendments. I am for the section as it stands with some slight amendments, which we shall propose hereafter; I say if these things are declared to be public uses then under the right of eminent domain, they would be taken and we would reach exactly the same result as we reach by this section, because this section only permits these things to be taken for these uses. The section is carefully guarded. I congratulate the committee on preamble and declaration of rights for their wisdom in selecting this section and formulating it in the language which we find it before this committee to-day. But, gentlemen, there is another thing, we talk about the sacred rights of property and the vested rights of property. Of course they need guarding, they need to be held sacred; but, gentlemen, I would permit a policy to be adopted in this Territory, situated as we are in an arid region, where it is necessary to bring under cultivation and till out land, to dig ditches and build reservoirs, where it is necessary in order to develop the mining resources of this country, to build roads, and to have private ways for ditches; to say that this thing shall be done; it is not infringing upon the private right of the individual at all. We provide for an adequate compensation for the property which is taken and it is given to him and the public is incidentally benefitted. The country is developed by reason of the fact that these rights may be exercised by the individual for these particular purposes. What is our country without irrigation? What is it without mines? What is it without agriculture?

Have we a country fit for anything else? We must do those things which will develop the country and these particular resources. No man would knowingly raise his hand against any action of this Convention which would promote its progress. The only question is one of policy, not one as to what ought to be the legitimate result. But, gentlemen, Colorado, which the gentleman from Salt Lake has handed to me, and which he failed to cite, has provided substantially the same thing as is provided in this section, only in different language. We find all this arid region around us providing for the same thing. We find in a recent constitutional enactment in 1894 in New York, where this very subject was taken up and where these rights were given after two hundred years of experience, not as broadly as we take it up here, because the conditions did not require it, but for drainage purposes, for the digging of ditches, and for private ways, these rights were given to the private individuals to take the property for particular purposes. Gentlemen, have not many of you seen farmers, sometimes, or some men who were not farmers, or some men who were in the mountains prospecting, acting like dogs in a manger? We do not want any dogs in the manger policy in our new State. If a man happens to be so situated upon an elevated piece of ground that a canal can be built that will develop the country, are we to say that that particular piece of ground shall not be taken? I say that it should not be if we did not provide an adequate consideration, but when we do provide it, and when it becomes absolutely necessary in order to develop this country, why not do it? How many of you, my fellow committeemen, who are farmers, have been annoyed with securing a private way to or across your lands; how many of you have seen either in that respect or in the digging of ditches, some man having a mean, penurious disposition, squatting down upon a piece

of land and preventing the development of the land, because these rights could not be secured? Is not it frequently the case and people of this Convention know it to be? But, gentlemen, I would say this, before we take private property for private use, even for the purposes named in this section, we ought to say that compensation shall be first made, because in the question of taking private property for private use, there is no urgent necessity for immediate possession; and I say, too, that it ought to be amended, if we reach that point, so that private property shall not be taken or damaged, because it would not be right for a large reservoir to be built upon an individual's land, the seepage from which might destroy a great deal of ground around it, without receiving compensation for such damages. With these two amendments which I expect to propose if this substitute is not voted out, I shall stand by the committee on preamble and declaration of rights.

Mr. HART. Mr. Chairman, it seems to me that section 24, as it is printed, is too broad. I particularly object to the words, "domestic or sanitary." I think in particular that those words should be stricken out. The gentleman from Salt Lake, Mr. Eichnor, suggested that this section is from Wyoming, and that Wyoming thus far has experienced no inconvenience from this proposition. That argument to my mind has absolutely no weight for the reason that Wyoming is so situated, so sparsely settled that a question of that kind under those words would, in the nature of things, not arise this early after the adoption of the constitution. Now, in regard to the words, "private use or public use," I admit that there is very great weight to the argument made by the gentleman from Salt Lake, Mr. Varian, when you consider this section in connection with 23. I adopt the suggestion of the gentleman himself in thinking of the question simply by itself, but

in considering it in connection with section 23 I can see that it will possibly lead to the fault that he suggested—that is, it would be construed that these were the only public uses for which private property could be taken. I have no objection, Mr. Chairman, to declaring that ways of necessity or rather ways for ditches, drains, flumes, etc., for agricultural purposes should be declared public uses. The idea of the Idaho proposition on that subject is a wise one. I have never seen any inconvenience arising under that proposition of the constitution as framed in Idaho, but of course, to meet that objection or to make that provision, it would probably be necessary to revise this whole section. Therefore, in view of the situation, in comparing the two sections, with the consent of the committee, I would withdraw the proposed amendment, changing from private to public, and permit it to stand as it now is, "private." It has the same effect; I am not particular which way it goes, if we could construct this, making an absolute provision that ways for ditches, flumes, etc., for agriculture, mining, and milling purposes should be declared public uses; I favor it in that shape.

Mr. VARIAN. I would ask the gentleman not to withdraw his amendment. The committee by an addition of a word or two can obviate that objection, as growing out of the context of section 23, and say that you do not mean to exclude other public uses.

Mr. EVANS (Weber). May I ask the gentleman from Cache a question.

Mr. HART. Certainly.

Mr. EVANS (Weber). I understand you to say, you would strike out "for sanitary or domestic purposes?"

Mr. HART. Yes, sir.

Mr. EVANS (Weber). I suppose you desire sewerage into your property; that would be a sanitary purpose?

Mr. HART. That is already covered by your word "drains." This is amply covered by the former part of

the proposition. When you come to insert the words, "domestic or sanitary purposes" in there you let down the bars and make such a broad foundation. You let in any conceivable abuse of the section.

Mr. EVANS (Weber). Don't you think drainage means drainage for lands through which the water percolates?

Mr. HART. It would be a drainage including sanitary.

Mr. EVANS (Weber). If you wanted fresh water to your house for domestic purposes, suppose you could not get it without running a pipe across your neighbor's land, that would not be a ditch, it would not do anybody any harm, it would simply give the right to put the pipe in the ground and cover it up, and then you could have your fresh water for domestic purposes. I think those two provisions are just as essential as any other.

Mr. JAMES. You spoke about domestic purposes in Wyoming; was not that provision put in there on this condition, that it is an arid country with large tracts of land, and enterprises such as mining, lumbering, etc., were denied the right of water passage over these large tracts of land—was it not for the purpose of supplying it with water?

Mr. HART. I was going to suggest, that the gentleman make his speech after I finish mine, not interject it in the shape of questions to my remarks. As I was about to say, I would be willing to provide that ditches, drains, etc., for agricultural purposes, should be declared a public use. I think it is an absolute necessity for our State, that there should be a right of way for ditches or drains, and also for milling and mining purposes, but the section as it stands, leaving the word "private" there, I think is sufficient, without reforming the whole section which I think we will probably have to do in order to declare these public uses, and for the present, without proposing a new

section in line with the Idaho and some other states declaring these public uses. I would favor the matter standing as it is so far as the private use part is concerned. The section as it stands is too broad in my opinion, perhaps I have narrowed it too much by striking out the words, "way of necessity."

Mr. ROBERTS. Would the gentleman permit a question?

Mr. HART. Yes, sir.

Mr. ROBERTS. Would your amendment then merely touch the words, "domestic and sanitary purposes"—that is the only amendment you then offer?

Mr. HART. Well, I do offer an amendment to line three—"private ways of necessity;" in view of the suggestion of the gentleman from Utah County, Mr. Creer, I don't know but what it would be right to leave in there these private ways of necessity, but however, I am willing to leave the amendment to stand as it is and take a vote on it

Mr. BUYS. Mr. Chairman, I am in favor of the section as it stands; I am opposed to striking out the words, "domestic or sanitary," and perhaps the gentleman from Cache, having lived out in the country where we are obliged to have water for domestic purposes, understands it. And again he says, the words "drains" and "flumes" cover the question of sewers. I will call the attention of the gentleman to the fact that it says, "private ways of necessity for reservoirs, flumes, or ditches, etc." Consequently, drains could not cover that unless it was mentioned. Sanitary and domestic purposes, I think it really necessary. There are many places where wells cannot be had out in the country, and they have got to have water for domestic purposes, and it is just as necessary as agricultural—if agricultural and milling purposes were declared to be public, I certainly think domestic pur-

poses should be. It is just as necessary as any other, and I am certainly in favor of the section as it now stands, but I would like to see the word "damaged" in there as well as "taken," because in many instances, property may be damaged as well as taken and I think that ought to be in. With that amendment I would like the section and will vote for the section as it stands.

Mr. RICHARDS. Mr. Chairman, I am opposed to all these amendments. I do not think that this section is perfect by any means. I think that some amendments should be proposed, but I don't believe that any of the amendments that have been proposed ought to be adopted, because if they are adopted, in my estimation, they will destroy the force and efficacy of this section. Now, I see no danger in it; it is said here and has been reiterated on this floor time and time again that one individual ought to have the right to take the property of another individual. Well, now, we all admit that. That does not require any argument. Nobody is going to dispute that proposition—except in cases of necessity. Now, this presupposes that in every instance where private property is taken for private use, the matter will be brought before a tribunal which has jurisdiction, which will hear both sides of the controversy and which will determine whether or not there is any absolute necessity for this private way or private use, whatever it may be, and some of the uses that are entertained here are in their nature public, although they may not be strictly and legally public. Still, they are in their nature public. The court will determine in every instance as to the necessity for taking of this property or for the use of it for this purpose, and I say that there is sufficient safeguard; I would be in favor of requiring compensation to be first made in cases of this kind, because I think there is a difference between the taking of

private property for private use and the taking of private property for public use. I say also that there is no danger in permitting the words, "domestic or sanitary purposes" to remain. In fact, if these words were stricken out, if the gentleman from Cache will examine the section carefully, he will see that by scratching out these words the section would be mutilated and would not mean even what he intends by his amendment. I am not in favor of striking out the words "private ways of necessity," because circumstances may arise, circumstances have arisen, where it was absolutely necessary that private ways should be granted, and as I say, these matters coming before the court, the right of the parties will be protected. Now, we find these provisions in Washington, Wyoming, Montana and Colorado—our neighbors, but it is said they are young states. That there has been no opportunity to test the question of propriety, and therefore it is to be rejected. If the gentlemen will turn to the constitution of Missouri they will find the same provision there. Missouri has had ample time to determine the propriety and expediency of these matters. In New York we find the same, I am told. I don't remember as to that definitely, but I see no danger in this section. As I say, I am in favor of amending, but not such amendments as are proposed here now, because they would destroy the full force and effect and virtue of this section, in my estimation.

Mr. PARTRIDGE. Mr. Chairman, I desire to say a word or two more on this substitute that I introduced. I am willing to withdraw the substitute, but I wish to explain myself. There seems to be a disposition to strike out or materially amend section 24. In the previous section it provides all that it would provide for if the section were amended—to use the word "public" instead of "private" uses, and I think that by substituting that word that

said uses were in their nature public uses—which of course the court would decide, they could then be taken and that would not interfere with the rights of individuals or at least an individual could not take the property of another individual unless it was in the nature of a public benefit. I am willing to withdraw that proposition and leave the section as it is, if that is the mind of the house, providing that they will add at the end of the section after "compensation," the words, "shall first have been made."

Mr. THORESON. Will you allow me to ask you a question?

Mr. PARTRIDGE. Yes.

Mr. THORESON. If you withdraw your substitute to that section, will you allow me to introduce a substitute for the section, providing as follows:

The taking of private property for the use of building and maintaining all necessary reservoirs, canals, flumes and drains for agricultural, mining, milling, or domestic and sanitary purposes, is hereby declared to be a public use?

Mr. PARTRIDGE. Well, I prefer to have my substitute.

The CHAIRMAN. The question is on the substitute of Mr. Partridge.

The question being taken on the substitute offered by Mr. Partridge, the substitute was rejected.

The question being taken on amendment proposed by Mr. Hart, the amendment was rejected.

The question was then taken on the motion of Mr. Varian to strike out section 24.

The motion was lost.

Mr. EVANS (Weber). Mr. Chairman, I now move to insert at the end of the first line in section 24 the words, "or damaged," and to add at the end of the section after the word, "compensation," the words, "first made."

Mr. CORAY. Mr. Chairman, I would like to make an amendment to that amendment, that the word "ditches" be stricken out, and the word "aque-

duct" be substituted. That would cover the objection of some gentlemen of putting pipes in the land.

Mr. RICHARDS. I submit that motion would not be in order.

The CHAIRMAN. There is no second to it.

Mr. NEBEKER. Mr. Chairman, it seems to me that there may be some objection to that section in this—that the damage could not be ascertained before the improvement is made and it might stand in the road of an improvement being made.

Mr. GIBBS. Mr. Chairman, I am in favor of the amendment of Mr. Evans, the first amendment, but I am certainly not in favor of the second amendment to it at the end of the section, "first made." After the gentlemen have voted on the first proposition, "or damaged" I would like to vote for it, but as it is I cannot vote for it.

Mr. FARR. Mr. Chairman, those are my sentiments exactly.

A division of the question being called for, the question was taken on the motion to amend by inserting the words, "or damaged" and the amendment was agreed to.

Mr. HART. Mr. Chairman, I would suggest to the gentleman from Weber, that the amendment read, "first being made" it is a small item, but that is the language used in constitutions in all other states having the provision.

Mr. EVANS (Weber). That is the way I wrote it, but the other provision as to public property says, "first made" and it was to make it harmonious that I changed it. I will accept the suggestion of Mr. Hart.

The amendment was agreed to.

Mr. HOWARD. Mr. Chairman, I would like to offer an amendment to section 24, to add after the word "others" in line 5, the words, "and then only when no other reasonable way is obtainable."

Mr. RICHARDS. Mr. Chairman, I move to insert after the word "flumes,"

the words, "sewers, conduits, pipes," so that it will read, "except for private ways of necessity, and for reservoirs, drains, flumes, conduits, pipes, or ditches." Now, the object in making that amendment is this, it seems to me that if it is proper to take property for a private use for a drain, it would be for a sewer, or a sewer might or might not be a drain, also if it is proper to take private property for a ditch it would be proper to take private property for a conduit or pipe to convey the water under the surface. The ditch implies that the water should be conveyed on the surface and in order to make the right complete, so that the water may be conveyed either upon the surface or below, I think those two words, "conduit and pipe" should be inserted and in order to make it complete as to sewerage—carrying off sewage for sanitary purposes, I think the word "sewers" should be inserted. I therefore move as an amendment, that the word, "sewers, conduits, pipes," be inserted.

The amendment was agreed to.

Mr. HART. Mr. Chairman, I move to insert the word, "necessary" after the word "for" and before the word "reservoir" in the third line. It would then qualify everything that follows and provide in accordance with the arguments of the gentleman from Weber that these rights were to be taken only where necessary. It would limit somewhat this particular provision.

Seconded.

Mr. EVANS (Weber). Mr. Chairman, that, of course, is implied in the section. I have no objection whatever, however, to its going in.

Mr. RICHARDS. I think that too, but I think it will do no harm to make it more explicit.

Mr. EVANS (Weber). It will do no harm and I favor that going in that respect.

Mr. ROBERTS. Does that strike out "for private ways of necessity?"

Mr. HART. No, sir; it doesn't strike out anything; it simply adds the one word "necessary."

Mr. ROBERTS. Then it would read, "except for necessary private ways of necessity."

Mr. HART. No, "for private ways of necessity and for necessary drains," etc.

Mr. VAN HORNE. Mr. Chairman, I move to amend by adding after the word "necessary" the words "dumps, tunnels, millsites and." The object of that I take it, is that almost everything is provided for here as a right to take private property; my own opinion would have been, that it was better to declare those uses that are desired under this right of eminent domain to be public uses, but we have provided now for agricultural, for the irrigation and so far as I can see have left wholly untouched the question of necessary mining, and I think that the amendment proposed would perhaps cover that; for that reason I am in favor of it.

Mr. FARR. Mr. Chairman, I prefer to have each amendment put separately. When there are three or four amendments, we get confused and we do not get anything done.

Mr. VAN HORNE. I will withdraw it until the word "necessary" is inserted.

The amendment was agreed to.

Mr. VAN HORNE. Mr. Chairman, I desire now to offer that amendment, after the word, "necessary," in line four to insert "dump, mill and tunnel sites and," before the word "reservoir."

The amendment was rejected.

Section 25 was then read as follows:

Section 25. The right of every citizen to the fruits of his labor and his freedom to sell the same, shall not be abridged, and shall be protected.

Mr. RICKS. Mr. Chairman, I move to amend by striking out in lines two and three, the words, "the same" and in lieu thereof, insert the words, "his

labor" so that it will read, "the rights of every citizen to the fruits of his labor and his freedom to sell his labor, shall not be abridged and shall be protected."

Mr. Coray offered the following as a substitute for section 25:

"The rights of every citizen to the benefits and sales of his labor and the enjoyment of the fruits thereof, shall never be abridged.

Mr. EVANS (Weber). Mr. Chairman, I really do not see the necessity of the section at all, and I do not understand it either. I think it is just as well out of there, together with all amendments. According to the very spirit and genius of our institutions a man has a right to the fruits of his labor. It is protected in other parts of the bill of rights but the idea of giving him his freedom to sell his labor—it seems to me we might be giving him the right to sell himself into bondage for a term of years, it might give the right to make a contract by which he might make a slave of himself forever, and then under the latter part of the section, that shall be protected. It reminds me of the Welsh woman who said she was a Democrat because she believed in free trade and high tariff.

Mr. VARIAN. Some Democrats do.

Mr. PIERCE. Mr. Chairman, I am in favor of the motion to strike out the section. I think everything that is accomplished by the section is accomplished by section 1 of the article.

Mr. SQUIRES. Mr. Chairman, I do not understand that any motion has been made to strike out yet.

Mr. PIERCE. Well, then, I am opposed to the substitute. It says in subdivision 2 of section 1, all men have the inalienable right to enjoy and defend their lives, liberty and to acquire, possess, and protect property. It seems to me that sentence is all that is necessary.

Mr. FARR. Mr. Chairman, to obviate further discussion, I move to strike out section 25.

Mr. RALEIGH. I second the motion.

Mr. JAMES. I would like to inquire of the committee that adopted this section what their object was, and I will ask while on my feet if it was not to protect the farmer, when he came into the city, from a tax being put on by corporations that would keep him from peddling in the city.

Mr. RICKS. The section was introduced to meet a contingency that has arisen lately all over this country—

Mr. RALEIGH. If that is the object of the section, I withdraw my motion—that is, if the question of Mr. James shall be answered in the affirmative, I shall withdraw my second to the motion.

Mr. RICKS. There is a tendency, Mr. Chairman, of organization of labor, when they make demands at certain times upon corporations to increase their salaries, and when those demands are not yielded to, to go on a strike. This clause is made to protect the men who are willing to work for the wages that are offered to them, and I think that is an inalienable right of every man to work for what he pleases and for whom he pleases, and he ought to be protected in that right.

Mr. PIERCE. Is not that declared?

Mr. RALEIGH. If that should be answered in the affirmative I still withdraw my second to the motion.

Mr. ROBERTS. Mr. Chairman, after listening to the remarks of the gentleman from Sevier I should still be opposed to the insertion of the section here, on the ground that the protection to be sought by workingmen who will be willing to work, if not prevented by those on a strike, would be proper matter for the Legislature to deal with, and since we have provided or declared the right of men to be free, it would be for the Legislature to make such provisions as contemplated by the remarks of the gentleman from Sevier, and it is not at all necessary that they should find their way into the Constitution.

Mr. CREER. Mr. Chairman, the object of the committee, as I understand it, in inserting the subject matter of this section, was that the laboring man should not be boycotted, that is that he should not be systematically proscribed. Gentlemen on this floor have told the members of the committee—in fact there were members of that committee who stated that the railroads have a systematic way of prohibiting a man that is following that occupation from selling his labor—that is, if he should give umbrage or offense to his employers—he cannot then get employment from any railroad line in the country. They have a systematic way of boycotting the laboring man in this respect, and it was insisted that something of this kind should be put in the bill of rights that he may be protected in the fruits of his labor and the right to sell his labor. That was the object, as I understand it, of putting it in there. I do not know the extent that this aggravation goes to, but that was indicated by members of the committee.

Mr. RICHARDS. I would like to ask the gentleman from Utah a question, that is how this section does or would protect that class of people in their labor, or in the fruits of their labor?

Mr. SMITH. Mr. Chairman, and gentlemen, I am opposed to the section and the substitute; it seems to me it is one of those things, if you put it in the Constitution, that is going to return to plague us. A man can run a little still or he can do anything in the world almost under that provision, and it seems to me that laws in the future would be passed under the Constitution that would give ample liberty to the citizen. This thing we don't know what it is. It is one of those uncertain things, and I am opposed to the whole proposition. And I am in favor of striking it out.

Mr. RYAN. Mr. Chairman, I would be very much in favor of striking out

that section if for no other reason than for the reason stated by the gentleman from Sevier. I don't think the Convention should enter into that subject and it should be left entirely to the Legislature for future provisions.

The question being taken on the motion to strike out, the motion was agreed to.

Section 26 was read as follows:

Section 26. The provisions of this Constitution are mandatory and prohibitory, unless by express words they are declared to be otherwise.

Mr. ROBERTS. Mr. Chairman, I have a substitute to offer for section 26.

The same was read as follows:

To guard against transgression of the high powers we have delegated to the government of the State of Utah by this Constitution, we declare that everything contained in the bill of rights is excepted out of the general powers of government and shall forever remain inviolate.

Mr. ROBERTS. I realize this is scarcely a change in substance; it is a change in the style of declaring, practically the same thing, but it has in my opinion this other thing in its favor, that as the section is now proposed, there is nowhere a declaration that the rights that we here declare for the citizens of the new State are excepted out of the powers of government and are forever to remain inviolate, as a guaranty to the citizens of the new State that as to those rights they shall not be interfered with, and I therefore move you the adoption of the substitute for section 26.

Mr. SMITH. Mr. Chairman, I move the section pass as it is.

Mr. EVANS (Weber). Mr. Chairman, I am in favor of Mr. Roberts' substitute for that section. The section as it now stands only has such significance as the law gives it anyway—that the provisions of this Constitution are mandatory and prohibitory, unless by express words they are declared to be other-

wise. A bill of rights is always mandatory and it is always prohibitory, unless it is otherwise expressed. This section means nothing at all. It means nothing except such significance as the law gives without it. I am inclined also to think that the amendment offered by Mr. Roberts, is one which the bill of rights itself would guard by force without it. But it seems to me it would be better to have in there something of that nature, so that present and future generations in reading it will understand exactly what a bill of rights means, and that is all that it is.

It is simply a declaration of what the bill of rights is. Let your young child study this provision that the provisions of the bill of rights are mandatory or prohibitory, they would not understand anything at all about it. They would gather the idea that those rights were declared by the bill of rights and were the rights which the people undertook to secure and maintain inviolate. I like it very much better. It is used in so many constitutions, too, that I shall support the amendment.

Mr. EICHNOR. Let me ask the gentleman from Weber County a question, or perhaps I should put the question to Mr. Roberts. You do not mean to infer that the bill of rights could not be amended as any other part of the Constitution could be amended?

Mr. EVANS (Weber). Oh, no; certainly not.

Mr. ROBERTS. Certainly not.

Mr. WHITNEY. Mr. Chairman, I am willing to vote for the substitute, and defer to the wisdom of the gentleman who submitted it, provided that the argument is eliminated from it. I see no need of beginning this section with a declaration that it is in order to guard against the transgression of the high powers delegated or declared in this declaration.

Mr. ROBERTS. If he would permit me a further explanation, I would say that in the constitutions of the majority

of the states, where such a declaration as that is made, it goes as the last section of the bill of rights.

Mr. WHITNEY. The point I wish to make is this, that it would be sufficient to declare that everything contained in the bill of rights is excepted out of the general powers of government and shall forever remain inviolate.

Mr. RICHARDS. Mr. Chairman, if this substitute is to prevail, I am in favor of the amendment, if the gentleman from Salt Lake offers it as an amendment. I will ask him if he does?

Mr. WHITNEY. Yes; I will offer it as an amendment.

Mr. RICHARDS. I am in favor of it as an amendment, if the substitute prevails at all, but I am opposed to the substitute. I think this section should pass as it stands, and then if it is desired to add to this article the substitute proposed or the section proposed by the gentleman from Davis, as modified by the gentleman from Salt Lake, I shall vote for it, but it does not seem to me it takes the place of the language that is in this section and that ought to remain there.

The amendment of Mr. Whitney was rejected.

The substitute of Mr. Roberts was rejected.

Section 27 was read.

Mr. WHITNEY. Mr. Chairman, I move that the section be transposed to take the place of section 26. I think it is out of its order.

Mr. EVANS (Weber). That will be for the committee on compilation and arrangement.

Section 28 was read and passed without amendment.

Section 29 was read as follows:

"Section 29. Frequent recurrence to fundamental principles is essential to the security of individual rights and the perpetuity of free government.

Mr. VARIAN. Mr. Chairman, I just rise for information. I have no motion to make. I would like to ask the chair-

man of the committee how this is to be enforced—what the purpose of it is? Under section 26, it is mandatory and prohibitory, on whom—on the citizen or the Legislature, or the courts? Are the individual members of the commonwealth frequently to recur to fundamental principles, and how? And if they do not, what is to become of the security of individual rights and the perpetuity of free government? And if they do not, how will we compel them to do it, and see that every man does frequently recur to fundamental principles? Possibly my friend Eichnor can inform me. Possibly it is found in the constitution of Washington. If so there is no necessity of going any farther.

Mr. VAN HORNE. Mr. Chairman, I move to strike out section 29.

Motion seconded.

Mr. WELLS. Mr. Chairman, the committee deem this to be a patriotic utterance, that frequent recurrence should be made to fundamental principles, because the tendency of the times might be as it has been in the past, not to recur very often to fundamental principles. When the people are oppressed and do not get their rights, it may be necessary to recur to fundamental principles. We thought it a patriotic utterance that did no harm in the declaration of rights, and as the gentleman says, we copied it from Washington.

Mr. WHITNEY. Mr. Chairman, I shall oppose the striking out of the section. This is not the first section in this document which declares a fundamental principle without guaranteeing it. We declare that all men have the inalienable right to enjoy and defend their lives and liberty. We suppose that the Legislature shall provide how they will be secured to them. The declaration of a general principle does not hurt anything. I think it ought to stand as it is.

Mr. RICHARDS. Mr. Chairman, I hope this motion will not prevail to

strike this out. Of course this, like some other portions of this article, is simply a declaration of rights and the criticism that was made about not being enforceable or whether it is binding upon the officer or the citizen, or the application that should be made of it, I think ought not to weigh in determining this question. It seems to me that it is there as an admonition from the great sovereign power of this State to every officer and every citizen and every person within the State, that there shall be frequent recurrence to fundamental principles, and to say that it is not enforceable in itself, is not an objection to the section, and I hope it will stand.

The motion to strike out was lost.

Mr. MALONEY. Mr. Chairman, section 25 was stricken out. Is it in order to propose a substitute in the place of 25?

The CHAIRMAN. If there is no objection it may be offered.

Mr. Maloney offered the following as a substitute for section 25.

Every citizen of this State shall be free to obtain employment wherever possible, and any person, corporation or agent thereof, maliciously interfering with or hindering in any way any citizen from obtaining or enjoying employment from any other corporation or person shall be deemed guilty of a misdemeanor.

The substitute was rejected.

Mr. VARIAN. Mr. Chairman, I move the committee rise.

Mr. WELLS. Mr. Chairman, I do not rise to oppose the motion for the committee to now rise, but I just wish to call the attention of the committee to the fact that section 4 has not been passed upon, so that when we again resolve ourselves into the committee of the whole, the declaration of rights will still be the order upon the calendar.

The CHAIRMAN. The article except the preamble and section 4 has been disposed of.

Mr. RICHARDS. Mr. Chairman, I desire to ask for information whether or

not this whole article is not still before the committee?

The CHAIRMAN. I do not understand so. It seems to me that the time must come when debate in committee of the whole will have to cease. Of course, it is open for amendment in the Convention.

Mr. VARIAN. You will remember that a motion was made in the beginning that we proceed to consider this article by sections, and amendments to be offered were to be received by sections; under that state of the case, I should think the chair's idea would be the correct one.

The CHAIRMAN. That is as I understand it. The motion is that the committee rise.

The motion was agreed to.

The committee rose and reported as follows:

The committee of the whole, having had under consideration the preamble and declaration of rights, beg leave to report progress

The Convention then took a recess until two o'clock p. m.

TUESDAY AFTERNOON, March 26, 1895.

The Convention re-assembled at 2 o'clock p. m., with President Smith in the chair.

Mr. Squires moved that the Convention resolve itself into committee of the whole, which was agreed to.

The Convention then resolved itself into committee of the whole, with Mr. James in the chair, and proceeded to the consideration of section 4 of the preamble and declaration of rights.

COMMITTEE OF THE WHOLE.

Mr. CHIDESTER. Mr. Chairman, I would like to know how many amendments, if any, are before the house on this section.

The CHAIRMAN. There are four amendments, as I understand, before the committee. One by Mr. Eldredge, one by Mr. Maloney, one by Mr. Buys, and one by Mr. Kimball.

The first business in order will be the amendment by Mr. Eldredge.

Mr. SQUIRES. Mr. Chairman, if I understand the status of section 4, it now lies upon the table. I move that section 4 be taken from the table for consideration.

The motion was agreed to.

The CHAIRMAN. I suppose, gentlemen, the first matter in order of these amendments will be that of Mr. Kimball, of Weber.

Mr. ELDREDGE. Mr. Chairman, I have a substitute that I wish to offer to take place of and supersede all of those amendments.

The CHAIRMAN. Do you wish to withdraw your amendment?

Mr. ELDREDGE. Yes, sir; the one offered by myself and also the one offered by Mr. Kimball.

Reads.

No public funds or property in this State, whether accruing from taxation or otherwise, shall be appropriated or used for the purpose of founding, maintaining, or aiding, directly or indirectly, any church, religious denomination, religious or anti-religious society.

Mr. RICHARDS. I second the substitute.

Mr. ELDREDGE. Mr. Chairman, I mean this to begin at the word "no" in the twelfth line and strike out all thereafter.

Mr. KIMBALL (Weber). Mr. Chairman, I am willing to accept Mr. Eldredge's substitute for the first clause of the amendment I offer. It is substantially the same.

The CHAIRMAN. Then you withdraw your amendment?

Mr. KIMBALL (Weber). I withdraw the first clause of the amendment I offered.

The CHAIRMAN. If there is no objection, the first clause of Mr. Kimball's amendment will be withdrawn.

Mr. VAN HORNE. Mr. Chairman, I hope that the amendment will be voted down. I don't think it covers the

ground completely. In our speeches here the other day on the same subject, the question was made about leaving out societies other than religious, benevolent societies, fraternal societies, or infidel societies, so that they might receive by vote of the Legislature part of the public funds, and I don't understand that this amendment covers that objection, and it is entirely in line, as it seems to me, with the purpose of the amendment, that we should guard the public funds from going to any society that deals with the question of religion or merely conduct, and guard the public funds from being diverted from their ordinary and proper use. I have an amendment, if the amendment is voted down, that I think covers that and I am ready to propose it. It includes not only the religious organizations and societies, but benevolent and fraternal organizations and societies, and I think that that ought certainly to be included in some way in this provision.

Mr. EVANS (Weber). Mr. Chairman, I am going to vote against the substitute because I don't think it goes far enough. It would permit the appropriation of money to the Masonic fraternity, Odd Fellows, A. O. U. W., or any other society; I think the gentlemen on the other side of the house are entirely too particular about this section. I don't believe there is a lawyer who would say that "secular" would include corporations by which bounties could be precluded. I think it would include all organizations and at the same time they are not anti-religious societies, neither are they religious societies, and it does not cover that class of people, and for that reason I shall vote against it.

Mr. CANNON. Mr. Chairman, I would like to offer as an amendment to the substitute—

The CHAIRMAN. The amendment is out of order, Mr. Cannon.

Mr. ROBERTS. Mr. Chairman, I, too,

shall vote against the substitute, not because I do not want it adopted in this clause of the Constitution, but for the reason offered by Mr. Evans, of Weber. It seems to me, sir, that in this connection the word "secular" merely stands in antithesis to "religious societies." If the word secular had remained I would be only to glad to vote for this substitute, but as it now stands, I could not vote for it, but shall vote against it, but hope that it can come up in some other form with the change that is suggested.

Mr. ELDREDGE. Before the question is put, I would ask, if I could get consent of the house, to simply propose the adding of two words to the motion. I will simply state what they are, add "anti-religious or fraternal societies."

Mr. EVANS (Utah). Mr. Chairman, I object to it; I have got mixed up. I wanted to do away with the whole thing and return it to the same committee.

Mr. KIMBALL (Weber). Mr. Chairman, now, I move to strike out all that language of section 4, beginning with the word "no" in line 12 and ending with the word "establishment" in line 16, and insert in lieu thereof the following, "no public funds or property in this State, whether accruing from taxation or otherwise, shall be appropriated or used for the purpose of founding, maintaining, or aiding, directly or indirectly, any church, religious denomination, religious society, or any other institution, society or undertaking which is wholly or in part, under sectarian, secular, ecclesiastical control."

Mr. EVANS (Utah). I second the motion.

Mr. VARIAN. Mr. Chairman, I move as an amendment that the word "secular" be stricken out.

The amendment of Mr. Varian was agreed to.

The question being taken on the amendment of Mr. Kimball, of Weber, it was rejected.

Mr. BUYS. Mr. Chairman, my motion to amend was to insert the words, "as a qualification" after the word "required," in the sixth line, so that it would read, "no religious test shall be required as a qualification for an office of public trust or for any vote at any election."

The amendment of Mr. Buys was agreed to.

Mr. VAN HORNE. Mr. Chairman, I move to strike out, beginning with the word "no," in the twelfth line of section 4, and ending with the word "establishment" of the language in the section and inserting, "no public money or property shall be appropriated for or applied to the founding, maintenance, or support of any religious, agnostic, anti-religious, fraternal, or benevolent organization, society, or order, or for the support of any establishment or institution under control of the same."

Mr. SQUIRES. Mr. Chairman, I move to strike out the word "benevolent;" I do not want all the charitable institutions of the State barred by any proposition of that sort.

The question being taken on the amendment of Mr. Squires, it was rejected.

The amendment of Mr. Van Horne was rejected.

Mr. VARIAN. Mr. Chairman, I move the adoption of the section as it stands.

The motion was agreed to.

Mr. EVANS (Weber). Mr. Chairman and gentlemen of the committee, I have a section which I desire to be added to section 25.

Mr. VARIAN. Mr. Chairman, I suggest a point of order, that under the order of the committee, we have gone through every section and the matter has been subject and open to amendment. We have concluded the business of the committee so far as this article is concerned, with the exception of the preamble, and further amendments are not in order in committee of the whole.

The CHAIRMAN. I think the point of order is well made.

Mr. EVANS (Weber). Mr. Chairman, I ask an appeal from the decision of the chair.

Mr. WELLS. Mr. Chairman, the gentleman from Salt Lake, (Mr. Varian), says we have concluded the consideration of the declaration of rights all excepting the preamble. While I recollect that there is a rule which provides that the preamble shall be considered last, I call the attention of the committee to the fact that we read this preamble and passed upon it in the first place.

Mr. VARIAN. The gentleman will pardon me, I understood that to be the case. I did not state that as an absolute fact.

Mr. WELLS. We have absolutely passed upon the preamble.

The CHAIRMAN. That is as the chair understands it.

Mr. VARIAN. I move, Mr. Chairman that when the committee do arise they report the preamble and article one to the Convention with the recommendation that it be adopted.

The motion was agreed to.

Mr. EVANS (Weber). Mr. Chairman, I would like to ask unanimous consent to have these sections which I prepared read. It is absolutely necessary to go into the bill of rights; I want to explain as a matter of personal privilege (and I will be frank when I do it) it was prepared and inserted in the bill of rights by the full committee but some of my democratic friends object to it. They thought there was something wrong about it, and upon careful consideration, I find that they were wrong, and I am willing to say now that they were wrong, and that that ought to go in. It is one of the most important things that can be put into that bill of rights and there ought to be absolutely no division about it.

Mr. VARIAN. Do I understand the gentleman to say that it was reported by the committee?

Mr. EVANS (Weber). It was at first.

Mr. VARIAN. It did not come to the Convention.

Mr. EVANS (Weber). It was agreed to be reported, but it was stricken out out of deference to some of our democratic friends, and I now ask to have it read.

The CHAIRMAN. If there is no objection it will be read.

The same was read as follows:

And every grant of franchise, privilege, or exemption shall remain subject to revocation, alteration, or amendment.

Mr. EVANS (Weber). Mr. Chairman, I offer it as a section. Every gentleman who has studied this question knows that any grant made to a railroad company or to any individual, for instance, to go into a canyon for a coal road or to take out timber, should still be within the powers of the Legislature to revoke. That question has brought more mischief in this country than any other. In the Dartmouth College case, it was decided that when the Legislature made a grant to an individual or an association without any power to recall it, it became a contract and to recall it the Legislature would be infringing upon the other provisions of the Constitution that no law shall be passed violating the obligation of a contract, so that if our Legislature were to give any grants to any individual for any of these purposes named, it would then become a contract irrevocable and subsequent Legislatures never would have any power to revoke it, and I put this just as they had it in the bill of rights, except changing the words to make it plain. If I may be permitted, I would cite a good many instances where this matter has worked a great mischief, but I will not attempt to do it now. Surely the Legislature ought to retain the power over those kind of grants, so that it can recall them. For instance, if a certain manufacturing establishment is exempt from taxation, or any other

kind of property is once exempted from taxation by any act of the Legislature, that exemption becomes a contract forever, and that the Legislature never can have the power to recall it. So it would be if the Legislature granted the right to go into our mountains and take rock from a quarry to any individual or corporation, if it were granted without any power to revoke, it would become a contract between the individual and the State, and they would hold it as long as they or their successors lived, or during the life of the corporation. Now, we do not want to do that—no Republican does. I congratulate my Republican friends that they put it in there; it is in all the modern Constitutions.

Mr. EICHNOR. Washington included?

Mr. EVANS (Weber). Every one of them, Republican and Democrat. There is nothing political about it at all. It is simply right that we should retain this power to recall these privileges and grants when they are granted by the Legislature. I move its adoption.

Mr. SQUIRES. Mr. Chairman, I understand that the particular article which was stricken out by this committee was not exactly like the article which Mr. Evans has sent up to the clerk's desk. That article was in this language: "No law shall ever be passed granting irrevocably any franchise, privilege, or immunity," and that article, as I understand it, was stricken out with the understanding that the matter should go to the judiciary committee, with the idea that they should make some report of a similar character on this subject.

Mr. EVANS (Weber). We cannot provide that in there at all. It is no place for it at all.

Mr. SQUIRES. Mr. Chairman, if it was the intention to have the article that was stricken out, presented now, why not have the article that was stricken out presented?

Mr. EVANS (Weber) I am perfectly willing.

Mr. SQUIRES. I would like to offer the original section as a substitute for the one offered by Mr. Evans.

Mr. EVANS (Weber). I simply changed the word "immunity" to "exemption." According to the definition they are exactly the same in meaning. Everybody understands what exemption is, and everybody does not understand what immunity means. I accept the substitute. I do not want to quibble about words. It is exactly the same.

The substitute as amended was adopted.

The CHAIRMAN. The chair observes ex-delegate Rawlins present. He is invited to a seat on the platform. [Applause.]

By request of Mr. Hill, the privilege of the floor was extended to Mr. Merrill, of Montana.

The committee then proceeded to the consideration of the article on education as follows:

EDUCATION AND SCHOOL LANDS.

Mr. LEWIS. Mr. Chairman, I move to amend the title to this article by adding the words, "and school lands."

The amendment was agreed to.

Section 1 was read.

Section 2 was read.

Mr. KERR. Mr. Chairman, I move to amend section 2 in line three as follows, by striking out the word "free," and adding after the word "schools" the words, "in which tuition shall be free, except as hereinafter provided."

The exception referred to is in section 7, where provision is made that tuition may be charged for admission to the university. It would be better to have this so worded that there can be no doubt as to the meaning. There is no exception to the public schools, the exception being made only as to the charge for admission to the schools.

Mr. VARIAN. Mr. Chairman, I do

not agree with the gentleman, that that would obviate his objection. I think it goes farther than is intended. I move to amend by striking out the words, "except as hereinafter provided."

The CHAIRMAN. I understand you, then, Mr. Varian, you move an amendment to Mr. Kerr's amendment.

Mr. VARIAN. Yes, sir, I see no necessity for his amendment, but if he wants to put "free" after "schools" I have no objection.

Mr. KERR. Mr. Chairman, the objection I have to the amendment offered by the gentleman from Salt Lake is this: Should the appropriation to the university be insufficient, it may be very desirable that the regents shall have the power to charge a tuition fee. For instance, I understand that the appropriation made a year ago to the university was inadequate, but the law was such that only ten dollars could be charged for admission to the several courses of the university. Now, where the attendance is four or five hundred students, a charge of fifteen or twenty dollars a year is of great assistance to the institution, but if the amendment proposed by the gentleman from Salt Lake should prevail, then all the schools of the public school system, including the kindergarten, primary, and grammar grades, and the high schools and the university must be closed, there being no power in the officers of these schools to charge a tuition. That is the objection I would offer to the amendment of the gentleman from Salt Lake.

Mr. VARIAN. Mr. Chairman, my attention being called to section 15, I see no necessity for my amendment, or the gentleman's either. I presume it is the intention of this committee to provide for a free school system, other than the university, but I can confess I cannot see the necessity of it. It is perfectly clear. A uniform system of free public schools, except as hereinafter provided, and the proviso referred to is in

relation to the university. That is the understanding, is it?

Mr. MAESER. Mr. Chairman, I hardly agree with Mr. Kerr in striking out the word, "free" before public schools, for the reason which he has already assigned. There is also the provision that such kindergarten schools as may be established by law; they also should come under that reason that Mr. Kerr has spoken of, because they are not absolutely free. That word free that is asked to be stricken out, before "public schools" should come after that—"common schools, which shall consist of primary and grammar grades, in which all children of the State, between the ages of six and twenty-one years may be instructed free." I should desire that that word free be taken off from before "public schools," as Mr. Kerr has proposed, and put it down where it should belong, after "twenty-one years." That would make the common schools free. That is those of the primary and grammar grades. There is a difference between public and common schools. Public schools comprises all from the university down to the kindergarten, but common schools are only comprised under the primary and the grammar grades. They ought to be absolutely free, Mr. Chairman,—the primary and grammar. Therefore, I move that that word free be placed down in line 10.

Mr. PIERCE. Mr. Chairman, I am in favor of the article as it stands.

Mr. CREER. Mr. Chairman, I second the motion of Mr. Maeser.

Mr. PIERCE. I am in favor of the article as it stands. It is simply a declaration that we are establishing a system of free schools in the Territory from the lowest grade up to the highest; that is all, and the proviso here, "except as hereinafter provided," refers to the university. There may be times when the university is in such condition that the regents find it necessary in order to maintain its standing to collect tuition, and perhaps that should be left so that

they could do it, but we for one thing, want to declare in our Constitution that the system that we have in this Territory is free schools, and that we maintain the proposition.

The CHAIRMAN. Mr. Varian, did you withdraw your amendment to Mr. Kerr's amendment.

Mr. VARIAN. Well, I will withdraw it.

The CHAIRMAN. Do I understand then that Mr. Maeser moves to amend Mr. Kerr's amendment?

Mr. MAESER. I shall state Mr. Kerr's amendment. The word "free" was to be stricken out before "public schools." I move to amend that the word "free" should be placed on line 10 as referring only to schools of primary and grammar grades, because as has already been stated the university is not absolutely free; that should be left to the Legislature; it is not a business of the Convention to bind it down. Certain circumstances and conditions may arise in the future, which may make it extremely necessary to not have the university entirely free. In fact propositions are proposed to be made now that the regency will be empowered to charge fees for tuition under certain conditions. That would not make the university absolutely free. Therefore, in order to be consistent, we have to declare that the schools of primary and grammar grades are free and that it is not left to the discretion of the Legislature, but the rest should be left to the Legislature. Now, this is an open question. Mistakes can be made and will be made by the Legislature, Mr. Chairman, and they may be made also by this Convention, and find their way into the Constitution, but there is that difference between a mistake in a Constitution and a mistake made by a Legislature; that mistakes made by a Legislature can be rectified within two years, while a mistake made in the Constitution is a very great deal more serious. There is a great deal more

trouble connected with rectifying them than mistakes in a legislature. Therefore, the provision reported by the committee empowered the university to charge if they thought necessary and conditions should arise where it becomes indispensable—to charge fees for tuition. Now, that would make it not free.

Mr. CREER. I desire to ask the chairman of this committee if it is the purport and intent of this article that from the kindergarten up to the university they shall be sustained and supported from the State school fund? Is not that the purport of the article?

Mr. PIERCE. No, sir; not at all—supported by taxation as provided by law.

Mr. CREER. Is not that then supporting the university from direct taxation?

Mr. PIERCE. Direct taxation, yes, sir; part of it.

Mr. CREER. Kindergarten as well?

Mr. PIERCE. The Legislature may provide for free kindergartens. In certain cities, Mr. Chairman, in answer to the remark made by Mr. Maeser, I will say that if his amendment prevails, you will notice that the system of the schools that we should have, only the kindergarten and the common schools would be free. It leaves the high school in such a shape that tuition may be charged in the high school, and I am opposed to that. You will see by examining the third subdivision of this section that such high schools that may be established by the Legislature or by cities, one or more districts, or one or more counties, as provided by law. Now the Legislature will provide a law very likely so that a high school need not be established in any county until the county is ready to support the high school. But if the county is ready to support the high school, then it is to be free to pupils in the high school. We ought to provide a system of free schools so that education in this Terri-

tory in all departments should be free. And my own idea is, that we should be free in the university, but it is possible that times may arise when it should be left to the discretion of the governing board of the university to charge certain tuition and that is what the bill provides for. I believe in letting the section stand as it is. I think that it meets the wants of the Territory just as it is.

Mr. LEWIS. Mr. Chairman, I think that the entire system should be free. No system of schools can claim to be national that is not so established. I take the position that when the state takes a child in the kindergarten and leaves him at the threshold of the high school, its work is incomplete. We believe it the duty of the state to fit and qualify the child for the citizenship in this State. We believe that every child in the State regardless of his financial condition should have equal privileges with others. That there should not be a provision to establish an aristocracy, and a distinction between the child of the rich man and the child of a poor man, but that the child of a poor man, if he has the desire and ability, can rise above the condition of the common schools, and go on through the high school and university, and that it is not only the duty, but it is the high prerogative of the state to fit and qualify the students for the high position in the state, and that no child should be left in a position that he cannot comply with the demands of the state. Now, my friend from Utah County, by cutting off this system of free schools at the threshold of high schools, leaves the child in his education incomplete, therefore, we say it is the duty of the state to fit and qualify this child for all the demands of the state, carrying him through, commencing with the kindergarten, for I believe in the language of Dr. Harris, United States Commissioner, that through the kindergarten schools, especially in cities of

ten thousand inhabitants, educational forces reach the slums of society, and can reach in that way when they can reach them in no other way. And by taking the child to the kindergarten and carrying it through all the grades of the common schools to the high schools and universities it qualifies it for every demand of the state. Therefore, I wish to sustain the proposition as set forth in this section, that the system shall be free—not all by state taxation, but most of it by local taxation of county and district; that wherever a district or a county is amply fitted and qualified to establish a high school that they can, by legislative enactment, provide for that condition and establish their high school, and where the State is qualified to establish a university in all departments, that they have that opportunity to do so, in connection with the State taxation, out of the funds so generously appropriated by the national government. Therefore, I hope the members of this Convention will, when they consider this section, extend the duty of the State to the citizen and the child and see that every child has every opportunity in fitting and qualifying himself for the demands of the State.

Mr. GOODWIN. Mr. Chairman, if there is any one thing in the world that the American people are more unanimous about than any other, it is in favor of the establishment of the public schools. There is nothing the American people are so jealous about having taxes as their public schools. I presume the committee that have had this under consideration, have wandered over the same ground that has been wandered over here, and have crystallized on this section. In connection with the other section providing that tuition when necessary in the university may be charged for, it is absolutely necessary. When we speak of free schools, not one in forty will ever think of the university. Their idea is to take the child of

rich and poor all alike—educate them in the same schools, until they get to that point where, if the spirit is in them, they will have a university education anyway, and if they do not they will be fitted to go out and take their chance in the competitions of this world. I hope the time of the committee will not be taken up, and that the amendments will be voted down, and the section adopted as it reads.

Mr. KERR. May I just explain that my motion was not to contemplate any change in the reading of this section at all? This provides that we maintain a uniform system of free public schools, except as hereinafter provided. This section is in reference only to the university, and hence, I proposed my amendment. My motion does not change the meaning at all.

Mr. MAESER. Mr. Chairman, I have listened with great attention to the remarks of Prof. Lewis and Judge Goodwin, but it does not touch the question at all. The question here is not the merits and demerits of the free school system. I am in for this. I am a strong advocate of free school systems. That is not the question here at issue. It is only this, whether it shall go into the Constitution or if it should not be left to the Legislature for the time being—that is the schools of the primary and grammar grade are already fixed. I raise no objection to that. The question is only for the high schools just now and the kindergarten. Not that I was objecting to them coming also under the free school system. As soon as we possibly can reach it, by all means let us have them free also. Now, we are entering into statehood. This Territory and the people will have a heavy taxation to stand. Can we afford it? Perhaps we can and perhaps we cannot. I do not know, I am no financier. I leave this to the Legislature to decide. Our first Legislature—whatever they say will be done, and if there is a mistake made

that mistake can be rectified, gentlemen, after two years, but if we to-day make a mistake and fix it up and burden the new State of Utah with a heavy expenditure, and heavy taxation necessary to meet it, and it should prove to have been a mistake, it is a very serious difficulty—much more so than if only the Legislature had made it for two years.

Mr. BOWDLE. Mr. Chairman, we discussed this matter very fully when we went over this article. I think it was the sentiment of the committee that if we are going to be economical, we had not better put our economy to too strict a test upon the free school system. I am in favor of economy in this new State. It will be absolutely necessary, but I am not in favor of curtailing one single iota of the free school system. I remember when in a country school of reading somewhere that sentence that you have all heard, that we must educate or we must perish. It is the fact, gentlemen, that we need all our institutions based on the idea of giving to the child an education that will fit him as a citizen. It is the first duty as we declare here that the State should provide ample means for the education of its children. Now, what does this bill provide? This bill provides that they shall be free, but it does not provide absolutely that you are to establish a high school. That is not established here, it is left with the powers that may follow us—with the Legislature to say—the Legislature can say a high school in such cities or in counties or in districts, as may be required shall be established, but whenever this is done, let it be free—let it be free—do not go and make that a kind of a public academy, with tuition charges. That would bar the poor boy and girl out and let the rich boy and the rich girl have the school right at their home. I am not in favor of that; I am in favor of it if it is to be a high school at all, that it shall be a free high school and

the territorial powers by the Legislature will not establish that high school until it shall be demanded by the people, and when it is demanded by the people, I am in favor of letting it then be free. I favor this section just as it stands.

Mr. CREER. Mr. Chairman, I desire to say a word or two in behalf of the taxpayer. I am perfectly willing that our aspirations in behalf of the poor man's child should be laid in that direction, if we could afford it, but I am entirely opposed to this article as it stands to-day. I do not think with the increased burdens that will be placed upon us by taking upon us the garb of statehood, that we are prepared to support those higher branches of education by direct taxation as it does seem to me, Mr. Chairman, that if we are able to give to the scholar a good common school education as has been inferred by Professor Maeser, that we are then doing sufficient. Now, only the last year after the territorial tax of three mills and the county tax of two mills, I paid seven and a half mills out of eleven for school purposes, and it seems to me now that commencing with the kindergarten and going through the high school grade, and all those technical branches of education and that to be supported by direct taxation, is just simply a matter of impossibility. It is placing a burden upon the taxpayer that he cannot carry. I believe, too, that California has just as good institutions in behalf of learning as we may aspire to. In support of this I would read section sixty-one, article nine, of the California constitution: "The public school system shall include primary and grammar schools and such high schools, evening schools, normal schools, and technical schools as may be established by the legislature or by municipal or district authority, but the entire revenue derived from the state school fund and the state school tax shall be applied exclusively to the support of primary and grammar schools." Now, Mr.

Chairman, the university had a very liberal donation granted by the general government and it seems to me that if it is desirable to give those higher branches of education that, that together with such preparations as may be made by the Legislature, would be sufficient without laying the foundation that these must be supported by direct taxation. I say that we must consider well the situation, whether we can afford to establish such a doctrine as this. It seems to me that California is sufficient in this direction. It is only placing these embellishments there. Why not go a step further and put the scholar into his office with a professional shingle out that he may be amply qualified to support himself in future life? I am opposed to doing this by direct taxation and I refer to the fact that we have all we can stand as the law is to-day, with regard to educating the youth of our Territory, but, together with the increased burdens that will naturally come upon the new State, it seems to me that we should not leave this in the Constitution, that it may sustain the university and all those technical branches by direct taxation. I believe California is right. That has passed through years of experience when they established this law that I have cited you to, and I am in favor of Professor Maeser's proposition. I think it is sufficient and then let the university be supported by private means.

Mr. IVINS. Mr. Chairman, I have not taken up very much time of the Convention in debate; I do not intend at this time to delay you but a few moments. The fact to which I wish to call your attention is this, that under the amendment proposed by Doctor Maeser, every child in this Territory between the age of six and twenty-one years will have the opportunity of attending school—a common school, just as good a district school as can possibly be provided, and that school will be maintained by taxation which

will be general. Now, gentlemen, if we go farther, the question which confronts us is this, will we be able with the increased burdens of statehood that we must of necessity bear, will we be able to extend to every child in the State a higher education, and if that higher education cannot be made general to all of the children of this State, then I should be opposed to its being applied to any particular locality or county. It would be possible under the provisions of this section that higher schools might be established in some of the more populous counties, but it is not to be expected that for a long time in the future, if ever, those higher grades of education could be taught in the outlying counties.

I very much doubt the propriety—I very much doubt, gentlemen, the expediency of our fixing in this Constitution a rule by which we may be required to pay our taxes for the support of schools where the higher branches are to be taught. I should be very willing indeed to lend my support to this idea if it can be shown to be tangible. I should oppose anything that would in any way curtail the efficiency of the common school system in this Territory, the system of district schools that is now in vogue, and I do not believe that it is proper for us to put ourselves on record here as being in favor of a school system which will give opportunities to the higher branches to all of the children of this Territory. We cannot carry such a load. For the present leave it with the Legislature of the State. Adopt the suggestion that is offered by Professor Maeser, and it will make our primary schools effective, and as I have said, give every child between the ages of six and twenty-one years the opportunity of obtaining a good common school education, and after we have done that, it is as Judge Goodwin says, if they are made of the right kind of metal they will get into a higher school and get a higher school education any-

how, with the assistance that we may be able to render them. I am in favor of the amendment proposed by the gentleman from Utah County.

Mr. VAN HORNE. Mr. Chairman, it seems to me that the gentleman either has the wrong view of this case or else that I have. I may be mistaken, but it seems to me that it simply provides that such districts or counties as want a high school may have one as part of the public school education, and in that case will have to pay for it themselves I understand that that is the case.

Mr. IVINS. May I ask the gentleman a question?

Mr. VAN HORNE. Yes, sir.

Mr. IVINS. Under this section it is provided that the Legislature shall provide for the establishment or maintenance of a thorough and uniform system of free public schools, except as hereinafter provided. Now, it goes on to say that the public school system shall include all of those different grades that are referred to in that section, so that whenever a time shall come that the Legislature may see fit to establish a high school in any county or city or precinct, that school becomes immediately entitled to its proportion of the funds, and under this section would be made free—just as free as the kindergarten. That is the way I interpret it.

Mr. VAN HORNE. I do not understand it as being that way at all. I understand that the Legislature may provide for those schools and provide a way by an open taxation, by which they can be supported and it says, "such high schools may be established by the Legislature first or by the cities next or by one or more districts in the third case or by one or more counties, as provided by law." The Legislature might say that one or more counties should join and have a high school for those counties, and might provide a way in which taxes should be levied to support that. The other provision with regard to the university—it seems to me that the

subsequent sections provide for that. We have a large fund already in hand, or we will have when we become a State, for the support of that university. The question of technical education coming in as a part of the general school system, I think is open to objections, unless it is supported by a general fund. But I do not believe and I do not think we ought to say that the high school education is in anywise one in which the State should not take measures to provide for some localities having a high school, and supporting a high school, but I do not see anything in this section that requires it shall come out of the general common school fund. The Legislature may say that if Salt Lake City, or Ogden, or Provo, establishes a high school, that the high school in such cities shall be supported by a local tax to be given for the purpose. I understand the provision to be that common schools, just as Doctor Maeser has suggested—the primary and grammar grades, are the ones to receive the whole benefit growing from the sales of land, etc. That these high schools, when they are established, are to be supported by the localities which establish them, under the provisions of the Legislature, as to where they shall be established and the method of taxation—the method of levying it, as it is done now, to legislative enactment, and special school tax in the district and on the vote of the electors and property owners of that district. I am in favor of the section as it stands.

Mr. MAESER. Mr. Chairman, I have one more remark to make. I appeal to Mr. Lewis, he is the commissioner of our common schools, and he will bear me out in one statement that I am making as a fact. Now, there are a great many of our district schools now that are not able with the support which they are getting from our taxation to keep up the whole year. Now, in Provo if they have to close up at the end of the third term for want of funds,

they cannot keep the schools all the year round. We have not been able thus far under our free school system in Utah Territory, to sustain our district schools with the funds at our disposal—to keep them open during the school year. They may do in Salt Lake City, I do not know, but they have not been able to do so in Provo. The teachers a year ago in Provo offered to teach for nothing if only the trustees would open the schools. They volunteered to teach one whole term for nothing. The trustees and authorities of the city did not except the offer. Now, this is not as it should be. We must secure our common schools, our primary and grammar grades first before all, because that means all the children of our people; it means them all. We have to secure them first and then, if there is any more left, by all means let us have the higher education. My record as a teacher has been for thirty-five years before this people. Nobody can charge that my heart was not devoted to the cause of education from the kindergarten up to the highest grade, but when I see the condition of affairs, I must say, as President Cleveland would say, that it is not a theory but a condition which confronts us.

Mr. PIERCE. Mr. Chairman, it seems to me that the argument of Doctor Maeser can be answered in this way. This bill does not call upon the Legislature to establish any high school in any place until that place demands it. If a county is only able to maintain the common schools, that is all the Legislature will require of them, but if the county grows and there is a demand for higher schools, then it ought to be so that the high schools can be established; and this Constitution is providing that the Legislature may establish those high schools whenever they find the demands of a locality require the schools to be established; and I say that in all the states, so far as my ex-

perience goes, there is an established system of free schools, and we do not want to be the State that is behind. If our schools are not in the condition that they ought to be, if our Territory is not in the condition that it ought to be as far as education goes, why, we will come up to that gradually, if we have the proper system behind us, and I think the section should be passed as it is.

Mr. ROBERTS. Will the gentleman permit me a question?

Mr. PIERCE. Yes, sir.

Mr. ROBERTS. Providing that the Legislature concludes to establish a high school in any locality, is that high school to be supported out of the general school fund raised by general taxation?

Mr. PIERCE. Never, sir; it is voted by local taxation, I suppose.

Mr. ROBERTS. You suppose, but I wish the direct question.

Mr. PIERCE. Yes, sir; the taxation in the district.

Mr. ROBERTS. And not out of the general school fund of the State?

Mr. PIERCE. Never. The idea of that may be a little ambiguous in words, but the Legislature provides a method by which it can be established, giving to the people of a certain locality the right to collect funds of the various property owners and taxpayers to carry on that system when the locality demands it.

Mr. ROBERTS. Mr. Chairman, I was not here at the commencement of this discussion. There seems to be a misunderstanding even between members of this committee, some understanding that high schools shall be established by the Legislature, being paid out of the school fund raised by general taxation, and others believing that such high schools must be established and maintained by a local taxation. I understand that first to be the position of Doctor Maeser. If that be his understanding, then, sir, I am in hearty

accord with his amendment. If, however, the contention made on the other part that these high schools established by the Legislature in cities or towns in different localities are to be sustained by local taxation, then I could not have any very great objections, at least to voting for those high schools so established and maintained to be free in the district. But I believe that it is the part of wisdom to move slowly in this thing and to be very sure of the ground on which we are standing. I believe, sir, that it is the duty of the State to provide first for the reasonable education—the common school education of all the children of the State. I believe that that is of first importance, and I shall be satisfied if the new State can get that far in the matter of providing education for its children, and I am in accord too with the gentlemen who hold that that is about all we can do and do it well. If those who contend that the high schools established by the Legislature are to be sustained out of the general school fund raised by taxation, if they are right in this contention, then I call the attention of the committee to this fact, that if that be conceded, from every section of the Territory there will come petitions and appeals for the establishment of high schools in this locality and that locality and the other locality, until they burden the people with the establishment of high schools that will render the efficiency of the common schools far below that which we wish to make them. I would rather see secured to all the children a good common school education than to undertake to educate a few in the higher branches of education. We know, sir, the tendency of high schools—

Mr. GOODWIN. May I interrupt you a moment?

Mr. ROBERTS. Certainly.

Mr. GOODWIN. Is not it absolutely true that the money raised by taxation for the school fund will have to be abso-

lutely equally divided among all the children of the State, and that no particular locality can get anything extra?

Mr. ROBERTS. My answer to that proposition would be this, that while there is a provision made for the division of the school fund, it would be diverted upon the theory that these high schools would be supported out of the general fund raised by taxation, and it would be diverted to the support of higher schools, when as a matter of fact to make our common schools efficient it ought to be employed in them and not diverted from the common schools to the high schools.

Mr. LEWIS. May I ask you, how does the law operate to-day? We have a territorial fund that amounts to so much per capita, this year about \$3.95, that fund goes to each county. It is distributed per capita through the counties in proportion to the census enumeration. Some of the counties establish their high schools, others do not. Now, in no instance has that fund robbed the people of the common schools for the high schools. The same thing can be done under this law in the new State.

Mr. ROBERTS. Answering the proposition now submitted to me, will say this, I will take it for instance in my own county. Suppose the condition exists that the gentleman has supposed, that in addition to our common schools, we should have also one of these high schools. Then, sir, the amount that is distributed to us per capita would not only have to sustain the common schools, but the high school as well. I am arguing this question upon the supposition that the gentlemen are right who say that these high schools are to be sustained out of the public tax. Now, sir, proceeding with my argument, we know the tendency of educators. It is a proper one, and that is to carry the people just as far as they possibly can in the direction of higher education. I don't complain of that,

but men who are engaged in any special profession are very apt to become men of one idea. To them the matter of education becomes paramount. They lose sight of every other consideration, and they would lead us to such heights at the very first bound in the matter of education, that instead of leaping to the pinnacle they hold out to us, we would be more apt to fall in the ditch at the foot of the mount. Now, sir, it is to provide against such contingency as that and to secure first as the basis of our educational system and as the basis of preparing men for good citizenship, to have an efficient and splendid common school system established first, and then let these higher educational institutions come gradually. They are not of so deep necessity to the welfare of the future State as the public school is, and I think it is the part of wisdom to go slowly in this matter and by going slowly to build well.

Mr. KERR. May I ask you a question?

Mr. ROBERTS. Certainly.

Mr. KERR. Is it your desire that there should be a provision in here prohibiting the establishment and maintenance of free high schools in the State?

Mr. ROBERTS. No, sir; that is not my desire.

Mr. KERR. Well, then does section 2 provide otherwise than that the Legislature may establish them? There can be no other interpretation given to the statement here.

Mr. ROBERTS. I am very pleased that the gentleman asked that question for the very reason that it brings to my mind an item that I intended to refer to and that was this, that it is granted to the Legislature to establish these high schools; then, as I think I pointed out the fact that from all sections of the Territory there will come up a clamor for the establishment of high schools and the demand will be immediate and universal, until our efforts at establishing the best system of education for the

people of the State, will be diverted from the common school system which I think we ought to make efficient.

Mr. CANNON. Mr. Chairman, I think upon this question, the gentleman has made a mountain out of a molehill. In the first place, a distinction is drawn between high schools and public schools. The gentleman in his remarks referred to public schools, clearly making a distinction as against the high school, as if the high school is not a public school. As contemplated in this article, and as it exists in fact, the high school is as much a part of our public school system as is the primary grade, and why should we object to a class or a community establishing high schools if the pupils who reside in that vicinity are fitted for the high school? Would you place a premium upon ignorance and upon stupidity? Would you say to the boy who did not learn anything but went to school and idled away his time, "yes, you may attend school and we will give you your per capita tax, but if you are bright, if you are progressive, if you advance and after a while need a high school, then we will not allow the per capita tax to which you are entitled?" I think the gentleman has a misconception of the manner in which the school fund is applied under the law of Utah, and as it doubtless would be applied under the provisions of this Constitution. It does not matter whether there should be a clamor or not from all sections. Let the clamor come, and if the people want high schools, let them have the high schools. They draw only the same amount per capita, whether the high school is a primary grade or a higher grade. It is distributed according to the school census that is taken, and not according to the class of schools that are established. Then, that being true, should they clamor for high schools, they would have to provide the funds with which to sustain them, drawing only from the general fund the amount that would be allotted if they

did not have high schools. And in case of primary instruction, if any section of country—if in any county or in any city there are students enough who have sufficiently advanced that they wish to enter a high school, should the community there be deprived of the privilege of establishing a high school and devoting their proportion of the school fund which they draw to the maintenance of that? I would say that to deprive them of that would be to take away from them all encouragement to advance, to say, "We will give it to you if you stay in the lower grades, and forbid it if you rise to the higher."

Mr. NEBEKER. Mr. Chairman, I do not intend at this time to give this body of men a dissertation on education, but it seems to me the section as it now stands is all right. It does not prohibit the Legislature, as all the gentlemen, I believe, will agree, from establishing high schools. At the same time it provides that the Legislature may establish high schools, and when the Legislature does that, there is no doubt but the law that creates the high schools will carry with it such provisions for the support of the high schools. They may even say that the high school may be maintained by a partial tax and by tuition fee. The Legislature will regulate that. I think it is safe to leave it with them.

Mr. ANDERSON. Mr. Chairman, I am in favor of the section as it is. I think that we can afford to economize in any other thing pertaining to our Constitution rather than the free school system, and I do not think that the objections of Doctor Maeser are well taken, because the way I understand this section, it does not follow that high schools will be established immediately, but they are to be established according to the needs of the districts and counties by the Legislature hereafter. Therefore, it will come upon the State gradually as has been suggested by those opposing it. There-

fore, I am in favor of the section as it stands.

Mr. EVANS (Weber). Mr. Chairman, I know that it will be presumptuous on my part to speak on the subject of education. I never have had any except that which I have acquired myself, and I do not possess any superabundance of that, but I can see from the trend of this article that some gentlemen in this committee are mistaken. If I understand the language right, this whole article of education is drawn upon the theory of giving free education, not only in common schools, but in universities as well. The gentlemen who formed the committee have so stated to me, out of the committee, and I think there is no doubt but what that is the intention. It is to provide and establish high schools and universities where children are taught free of charge at the expense of the State. That is the way I read this entire article. I will ask the gentlemen upon the committee if it is not true—if they did not consider that and agree in the committee that it was for the purpose of giving a higher education and not a common school education?

Mr. KERR. In section 15 let me call your attention—

Mr. EVANS (Weber). I have read the entire article with a great deal of care. Was not that the intention of the committee? I will ask Mr. Lewis, was it not the intention of the committee that the State should give free education in universities as well as in common schools?

Mr. LEWIS. Yes, sir.

Mr. EVANS (Weber). There is no use, gentlemen, of dodging the question. I admire the honesty of Professor Lewis, he believes in the position which he occupies. Some of us take a contrary view—

Mr. KERR. Pardon me, I will call your attention again to section 15, and I know that the understanding of members of that committee was, that

where it was found necessary or desirable by the regents or managers of the board, they could charge for tuition. It does not require it, but that they might do so.

Mr. EVANS (Weber). As I understand it, we are considering section 2. That language is unmistakable. It is incumbent upon the part of the new State to establish universities for the instruction of pupils free of charge under this section, and there is no escape from it. Gentlemen make the objection that if the locality desires a high school, why not let it have it? I say so, too. Is there anything to prevent them from voluntarily associating themselves together in a corporate capacity and establishing a high school, if they desire it at their own expense? But this section draws from the people by way of enforced taxation money to support these higher schools. But, gentlemen, I am not opposed to education; no man, of course, in this committee is, but can we afford to say that we will establish universities where our children will be taught free of charge at the public expense? A system of that kind, admirable as it may be, desirable as it may be, upon the part of many, is wholly impracticable in Utah Territory or in the new State. Our finances will not afford it. The poor people who work and toil upon their farms and in their shops and who need the services of their children about the time they are ready to enter universities, will be required to take the services of their children in order to support themselves and their families, and they are the very class of people who will not get the benefit of the higher education. It is in the interests of the child who can afford the time, whose parents can afford to let him go to the university, and not in the interest, as Doctor Maeser says, of all the people. The common school system, when established free, is the best system known, I think, and the only one which

ought to be adopted under conditions such as we have in Utah. I think the State has performed its duty, and I think the State has not performed its duty when it has done less than to provide free education in the common schools, if all the people alike have access to them. And if it be in the child, it will develop. He will secure education in higher schools that are not supported at the expense of the State, even if he has to do like Doctor Franklin did, make his gruel thinner while he is securing his education. I will tell you, gentlemen, we sometimes move in the groove toward the goal of education and get our ideas so exalted, that we forget, as has been stated, everything else. We forget that it is necessary for some people to toil and labor with their hands, that it is necessary to have occupations, that it is necessary to produce. Some of us get the idea that all that is necessary is to give a college education and then the child will live in the world by acquiring and practicing some profession. That will not do. People are not so constituted. We require some work. Somebody must work and somebody will work. But you give all the children a university education and they will conceive the idea that they can live without producing anything, without having any particular manual employment.

Mr. LEWIS. I would like to ask the gentleman to state if he can cite a single instance in history where a free people ever expressed regret at having made ample provision for the education of the people. Even in this Territory, have the people ever expressed any regret at having too much of education?

Mr. EVANS (Weber). We have not had too much of it, but we are now taking a step too far to suit me. I say that if we get that far we will regret it. What will we do? Shall we establish a university in Ogden and Salt Lake and Provo, and every other city in the Ter-

ritory? If not, will the people be upon an equality? Will they have the same access to the schools?

Mr. SQUIRES. The section provides for a university.

Mr. EVANS (Weber). Exactly—a university, but when we confine it to the common schools, then those schools are in every precinct and every child has an opportunity to enter the portals of the school house and to secure a common school education at the expense of the State. I think the State has performed its duty when it has done that, and you will find, gentlemen, in going through this article that you will be confronted with this question from one end to the other. We ought to have an expression now as to whether we want these high schools at the expense of the State. If we do, the article is all right. If we do not, it must be reformed because it is drawn upon that idea. No man could tell me that a venerable teacher like Doctor Maeser would have a mistaken idea about this. Gentlemen, there is a man who has spent his life in the education and training of the young. He knows the benefits of education. He knows the interests of the child and he has studied the interests of the State, and I shall support the amendment which he proposes.

Mr. IVINS. Mr. Chairman, I wish to crave the attention of the house for a few minutes more. There is undoubtedly a misunderstanding in regard to the provisions of this section. If I could be led to understand it as it is explained by the gentleman from Salt Lake, who is the chairman of the committee on education, I should have no objection to it at all, but I certainly cannot understand it as he interprets it. Now gentlemen, before a vote is taken upon this question, I wish to call your attention to the section as it reads at present, and then I wish to call your attention to the section as it will read under the amendment offered by the gentleman from Utah, Doctor Maeser. At present

the section provides, (reads). Now, gentlemen follow me in this. Doctor Maeser proposed to strike out "free" in line 3 and to insert the word "free" in line 10 after "instructed." The section will then read, "May be instructed free." Now, gentlemen, such high schools as may be established by the Legislature or by cities—one or more districts or one or more counties, as provided by law, and a university. I submit, gentlemen, that the amendment offered by Doctor Maeser brings this question precisely to where my friend, Mr. Pierce, says that he designs it should be. Precisely where my friend, Mr. Nebeker, says that he desires that it should be. It provides that these lower grades—the kindergarten and the common school—shall be free, and that after that the Legislature may provide for higher schools, and may provide the method by which they may be maintained by taxation or otherwise, as provided by law. I do not object to this. I am in favor of it. I believe that we should have high schools just as soon as the Legislature shall say that we need them, but I do maintain, gentlemen, that except Doctor Maeser's amendment is inserted in this section, it makes every one of these high schools that may be established and this university, entitled to their pro rata of the school funds that are collected from taxation in this Territory. That must necessarily do one of two things, it must either materially increase the rate of taxation for school purposes or else it must of necessity deprive the district schools of their pro rata of school money, and it is this latter point that I am guarding. I tell you, gentlemen, that in the outlying districts, we have not now sufficient to maintain our schools six months in the year, and therefore I object to this section as it stands. I ask you to look at the question carefully, you will find that the amendment of Doctor Maeser proposes to put this thing precisely where my friends, Mr. Van Horne, Mr. Pierce,

say they want it. Therefore, they ought to vote for that amendment.

Mr. CANNON. May I ask a question?

Mr. IVINS. Yes, sir.

Mr. CANNON. As I understand, Mr. Ivins, the amendment offered by Doctor Maeser consists in simply striking out the word "free" in one place and inserting it in another?

Mr. IVINS. That is all there is to it.

Mr. CHIDESTER. Mr. Chairman, I believe that the amendment offered by Doctor Maeser is the proper one. Now, I am in favor of the free school system that would be established by that amendment, but to allow this section to be adopted as it reads, appears to me that it would compel the Legislature to establish a university and then, if you want to put it plain, the other districts could establish free high schools and pay for them. That is the way that I have got it figured down. If I am wrong I want to be corrected. Now, I am willing for the establishment of the free school system and make it universal. Make it so that any section of country if they desire free schools and want to pay for it—all right, but I do not understand it to be that way as the section now reads.

Mr. BUTTON. I would like to ask Mr. Ivins a question.

Mr. IVINS. Yes, sir; I will answer it if I can.

Mr. BUTTON. You make the statement that these high schools would draw from the money. I would like to ask you if Salt Lake City built high schools, would it make any difference with the per capita that each scholar would draw in the outlying districts?

Mr. IVINS. Why, certainly; certainly it would make a difference. I make this statement, that the right of taxation must either be materially increased or else the amount of school funds of necessity be reduced to the district schools. At present it is a well-known fact that in every district in this Territory the school fund is insufficient.

Now if you establish a high school, the district shall have to be maintained just the same in Salt Lake or any other county.

Mr. BUTTON. That is not the question I asked of the gentleman. If Salt Lake should establish ten high schools, they pay for those high schools; they draw the amount per capita for each scholar, and do not the outside districts draw their per capita just the same, so you do not have anything but the public schools without high schools? That is the question.

Mr. IVINS. I do not know that I quite understand the theory of the gentleman's question.

Mr. BUTTON. There are so many scholars in the Territory between six and twenty-one years, they draw such a per capita of the revenue of the State, no matter where they live. Well, now, if we establish these high schools in Salt Lake City, would it affect the amount per capita that you will draw in your district for each scholar?

Mr. IVINS. Yes, it would, from the fact that it would very soon become apparent that the present rate of taxation would not be sufficient to maintain the district schools in this county, and also the high schools which would be established. Consequently there would have to be an increase of taxation in order to provide the necessary funds or else the efficiency of either the district schools or the high schools would not be to the grade you wish to bring it. The funds to meet it would be insufficient.

Mr. BUTTON. That is just the point exactly, Mr. Chairman. As I understood Mr. Roberts and Mr. Ivins, they both claimed that it would affect the the free public schools. Now, if Salt Lake City did provide, or any other district wants to establish a high school, and the people that pay the taxes in that district are willing to pay more taxes, to support that high school; why should

any district that does not want that high school object?

Mr. ROBERTS. Will the gentleman submit to a question? Take it for granted that in Salt Lake City you establish your high school and the amount per capita is drawn for the public schools in Salt Lake City, and you sustain your high school by the public taxation. Wouldn't the result be that that means that ought to go to support an efficient district school system, are diverted to the high school, and not used in making efficient the common schools? Wouldn't that be the effect?

Mr. BUTTON. I will say this, in answer to that, that the chances that I had to go to school when I was younger—if the taxes came higher, I am willing to pay the little proportion extra on what I have got to pay.

Mr. LEWIS. Mr. Chairman, if the proposition of Doctor Maeser prevails, it would virtually close all our high schools to-day. Now, it seems to me that this point is so clear and so plain under the provisions of this section as to need no argument. In Salt Lake City and Ogden City, and I presume Provo and other cities, there are pupils who graduate from our high schools at eighteen or nineteen years of age—several years before they reach the limit of the age prescribed by the law as the school age. Now, Salt Lake City draws its amount of the territorial appropriation. It is not applied to the pupil who is in the grammar school or the high school, particularly, but applied to the children of the school age equally. Now, in Salt Lake County or Weber County or any other county that receives that territorial appropriation and makes a provision to establish a high school, the pupil that enters the high school will receive the benefit of his per capita and the district or the county raises the balance to maintain the high school. Now, if Doctor Maeser's amendment prevails, the pupil who has passed through the several grades of the com-

mon schools at the time he has reached the age of twelve or thirteen, is thrown out, he can advance no farther, although he is entitled by his age to the territorial per capita appropriation. Therefore, I say that it is unjust. It is not right.

Mr. EICHNOR. I desire to ask a question. You were on the committee?

Mr. LEWIS. Yes, sir.

Mr. EICHNOR. Isn't it a fact that the committee has attempted to legislate in the second section, instead of confining itself within the limits of making a Constitution?

Mr. LEWIS. I think not. We took the idea not from Washington, but from North Dakota.

Mr. EICHNOR. It is in no Constitution, Mr. Lewis.

Mr. LEWIS. Perhaps not in detail. But the idea is the same in North Dakota constitution. North Dakota arranges for a public school system from the primary to the university.

Mr. LUND. I want to ask Mr. Lewis a question.

Mr. LEWIS. Yes, sir.

Mr. LUND. Do you tell us that even a child of twelve is through with the eighth grade?

Mr. LEWIS. There are instances, yes, sir; we frequently have them in the high school at fourteen. There is another thing that seems to me is important to mention, that in connection with our high school system, we wish to maintain a university. I want to ask the gentlemen of the committee how do you expect to reach the university, only through the high school. If you carry your pupils up to the high school, after graduating them in the eighth grade, if they have not the means to go any farther, our high schools are defeated, and the feeders for our university are cut off. You cannot, gentlemen of the committee, sustain a State or national system of education unless you aim to make the system free from the primary to and including the university.

Mr. VAN HORNE. Mr. Chairman, it seems to me that there is a question that has not been looked at by this committee, and that is this, that the per capita is fixed according to the school age alone regardless of the grade to which that scholar will go. It seems to me that the prohibition as would be intended by the amendment as to the high school will say that a community was not to be allowed to use the funds properly belonging to it according to its per capita of the school children in the manner that it deemed best for the good of all that mass of school children. That it was limiting them to say that because certain scholars had passed beyond a certain grade in the public schools, they should not be taught at the public expense, out of the fair share belonging to them.

Mr. MURDOCK (Beaver). Mr. Chairman, I am decidedly in favor of the amendment made by Doctor Maeser. There are several features that have not been taken into consideration in this matter. We recollect that the school age has been increased one-fourth—from sixteen, I think was the former age—

Mr. MAESER. Eighteen.

Mr. MURDOCK (Beaver). Well, there is quite an increase you will recollect, and for us to also now, in addition to that, go to work and support high schools, is simply what I would not like to see inaugurated in this body. It certainly is very admirable to have high schools and have people well educated. I fully endorse that. But, as my friend from Weber County says, he has not the benefits and advantages of an education, that is my fix exactly, I like to see education—

Mr. GOODWIN. May I ask the gentleman a question? Suppose a child is ready for the high school at twelve years of age, as a great many are at present in the city. He draws his per capita of the school fund. What are you going to do with him?

Mr. MURDOCK (Beaver): Well, if he

wants to go to a high school, I should say let him have the privilege. [Laughter.]

Mr. GOODWIN. What would be done with his part of the money?

Mr. MURDOCK (Beaver). Give it to him that has not got so far along. I say let us have a common school education throughout the country and if we can support that we are doing a mighty work, if we can keep all the schools of that kind throughout the different parts of the country. You will recollect that a university is a luxury, and it has got to be supported out of the general funds according to the provisions of this act. It has got to be supported in common with other schools, but I want to tell you that there is a feature in it that you have not noticed. It is all very nice for those that live adjacent to high schools, to have the privilege of going there and being supported by the general fund. That is all very well; but there is a great proportion of the people throughout the outlying counties that are not able, although that may be a free school, to send their children here to school. They are not able to board here. They are not able to keep up with the association that they would be compelled to keep. Consequently, I should be opposed to supplying out of the general fund the high school, but if we can give them the ordinary grades, such as will prepare them for the ordinary duties of life, then, I think that the public has done a grand thing for the common public. But, my experience is that in the outlying counties there is not sufficient means from the public treasury to keep the schools in a good healthy condition more than six months in the year.

Mr. PRESTON. Mr. Chairman, it seems to me that the whole trouble with this affair we have before us now, is that we are legislating for the next few generations or a hundred years to come. If we confine ourselves to constitution making, and say what the

Legislature may not do it would seem to me it would save a great deal of trouble. Therefore, I move that this whole article be referred back to the committee and let them confine themselves to making such constitutional suggestions here as may be proper in a constitution.

The CHAIRMAN. The chair would hold that that is out of order.

Mr. GIBBS. Mr. Chairman, I would just like to submit one question to Mr. Pierce.

Mr. PIERCE. I will answer it if I can.

Mr. GIBBS. If a high school and a university are kept up from the school fund, will that not make the common school fund much less?

Mr. PIERCE. If it is kept out of the per capita fund, of course it will, but it does not mean they will have to be supported by the per capita fund, as I understand it—not necessarily.

Mr. EICHNOR. I would like to ask Mr. Pierce a question. Did the committee on education follow the North Dakota constitution?

Mr. PIERCE. I do not know.

Mr. EICHNOR. If they did, they followed the poorest constitution west of the Missouri River.

Mr. PIERCE. My own opinion is that this is the best article ever framed for a constitution.

The question being taken on the amendment offered by Mr. Maeser, the amendment was agreed to.

Mr. EVANS (Utah). Mr. Chairman, I move that the word "except" be stricken out of line 3.

The motion was agreed to.

Mr. PRESTON. Mr. Chairman, I move that all after the word "free" that has been inserted in line 10 of that section be stricken out.

Mr. KERR. Mr. Chairman, it seems to me that this motion should not prevail. There is not a thing in this section that should not properly be included in the Constitution of a new

state. All it provides is, that a Legislature may establish high schools in such places as Salt Lake, which desire to establish high schools. I cannot understand that it would be desirable to prohibit the establishment of a high school.

Mr. THURMAN. I would like to ask the gentleman a question. Would not the Legislature have all the power you are talking about if that is all stricken out?

Mr. KERR. Well, then, what is the object of putting this in?

Mr. THURMAN. We do not think there is any good object, that is why we want it out.

Mr. KERR. Similar provisions are in the constitution of the state of California and the constitutions of most of the prosperous and leading states of the Union. I can see no object in eliminating this from the Constitution of the State of Utah. It lays the foundation for the educational structure of the State. There certainly can be no objection to allowing it to remain.

Mr. VARIAN. Mr. Chairman, I do not know what the design of this committee is in relation to high schools. I had proposed offering an amendment to be inserted after the word "law," in line 13, to protect the high schools of this city and Ogden. I want to add after the word "law," in line 13, the following, "and all high schools now established in cities of the first and second class, under existing laws, shall remain free."

Mr. EVANS (Weber). Mr. Chairman, I arise to a point of order. My point of order is that an amendment cannot be offered to a part of a section to which a motion has been made to strike out. The question would simply be on the motion to strike out.

Mr. VARIAN. Mr. Chairman, I withhold the offer and keep the floor. I am inclined to think, I do think, that Mr. Evans' point of order is well taken. But I will make that the food for what

I have to say now against this motion to strike out.

Mr. RICHARDS. May I ask the gentleman from Salt Lake a question? I will ask if this point of order is well taken, what would be the effect, if the motion carried to strike out the language that has been indicated by the gentleman from Salt Lake, making the motion, and whether it would not prevent any amendment being offered that would reinstate that language or any part of it?

Mr. VARIAN. No; I think I could offer what I proposed as an amendment, and make a new proposition.

Mr. RICHARDS. I think there is no question about it.

Mr. VARIAN. Now, gentlemen, I assume that gentlemen on this floor, representing other districts and actuated as they all appear to be by a desire to keep down the taxation, speaking for their own localities, can have no objection to the people of Salt Lake City and I assume Ogden City (although there are other gentlemen here who will speak to that question), maintaining a high school if they choose to do it. It is a part of our school system. It has received the approbation and the ratification of our people. We have built up a system of schools here—grammar schools and common schools, including within the system a high school, which is the pride and joy of this city, and I doubt not as you shall become better acquainted with it, you will say that it is destined to be the pride and glory of the Territory or the State at large. We have expended vast sums of money—not money taken from the taxpayers of your constituents, but money taken from our own pockets, and secured upon our own credit. Our people have voted \$825,000 in bonds, which to-day stands as a debt against this community, for the very purpose of maintaining a system of schools here, which we desire, not alone the grammar and the common

school, as you term it, not alone the kindergarten, but the high school, which is the mecca of the pilgrimage of all our youth and our children, as they travel through the common school.

Such is the rivalry brought about by the opportunities afforded the children of this city that we see twelve or thirteen thousand children and youths of both sexes day after day during the nine months in the year, going side by side and climbing the stairways of learning, all actuated by the single desire of finally reaching the high school. Nearly five hundred pupils in it to-day. Such is the prospect and such is the anticipated increase that next year, as I was informed by the principal in charge of it a week ago, they expected the number of pupils would reach nearly twelve hundred, and so it grows. Why do you object to our going on with that work, if we choose to do it? We realize, gentlemen, that there is nothing that we can do that will tend more strongly to invite the right kind of immigration here, that will direct the eyes of capital to this State and this Territory, that will tend towards all kinds of advancement in progress and civilization, than to maintain and improve the system of schools that we have. We are not willing to take one backward step. We are not willing to cut off the high school. Our people have been tested upon this question. They have voted vast sums of money to create and to maintain and perpetuate this system. Why, then, do you want to strike out this clause providing for high schools? There are two in the Territory. If I am correctly informed although I cannot speak for Weber County, Ogden is desirous of keeping its high school. Why, not leave it as it stands? Let the Legislature provide in its wisdom for other high schools, if your people desire it. Is it not true—and I speak in no offensive way, but is it not certainly true that anything in this article as proposed contemplates as a mandatory

provision the creation of high schools in any city or county or district in this Territory? It simply paves the way. It authorizes the creation of high schools, if the Legislature chooses to establish them. Certainly the Legislature would not establish high schools in districts or counties unable to support them.

Now, as to the university, it strikes me that the argument here against the high school and the expenses and the argument that higher schools of learning are not open to all classes of the community, which is put forth here, as a reason why this matter should not be maintained by the Constitutional Convention, came with a very peculiar grace to say the least, from gentlemen who have represented their districts in the Territorial Legislature year after year, and voted money by the tens of thousands and fifties of thousands of dollars to the maintenance of the university. It never was pretended that a tithe of the children of the people of this State would realize and enjoy the advantages of the university, and yet it never has failed, year after year, from the beginning through decade and decade, for the people of this Territory sent up members to the Legislature to have voted out of the public funds for this higher learning hundreds of thousands of dollars in the aggregate; and if I understand the temper of this people aright, they intend to maintain and continue to enjoy and to improve this higher institution of learning. Why, then, will you stop short of the high school, that intermediate ground between the primary and the final completion of a college education? Why should we stop there? Hundreds and thousands of your youth will never get beyond the high school—hundreds and thousands of them. The university itself, as has been suggested, will only be enabled to afford the advantages to a few comparatively of the youth of the State, but in the high school a boy or girl can get

very nearly a college education. As they are carried on to-day, with the system in vogue very many of the youth of the State will be content to stop at the graduation from the high school. That is the feeling in this city. Our desire is to continue and improve it. It is now in such a state of excellence that every citizen who has children and every man and every woman who has the good of the State at heart takes a pride in it, and we want to see it go on. We speak of it reverently; we feel for it, and we ask you not to interfere with our operations in that behalf. Leave it alone as it is. If you do not want a high school for your district, guard the Constitution if you will, but leave it open to us to go on. Vote down this amendment; it is not necessary to strike that out—and permit this amendment I mention to be offered as the section stands so that Salt Lake City and Ogden (if she desires it, and if she does not desire it, the gentlemen representing that city can strike out "second class"), may be permitted to maintain this high school free in accordance with the will and the wishes of our people,

Mr. EVANS (Weber). I desire to ask Mr. Varian a question. Is there anything in the matter which is proposed to be stricken out, and in your amendment, which the Legislature would not have the power to provide in the absence of this constitutional provision? That is all I want to ask.

Mr. VARIAN. I would say, Mr. Chairman, that ordinarily if nothing were said about it, I presume the Legislature could define and create such schools as it saw fit, in its wisdom, but if you are going to enact part of a section and distinctively mention kindergarten, common schools, primary, and grammar grades, etc., as free schools, there might be a very serious question if the Legislature should afterwards under that constitutional provision undertake to create a free high school for the city of Salt Lake. What objection, may I

ask, is there to making them free and clear in the Constitution?

Mr. EVANS (Weber). I would like to ask you the further question. If you strike that out, whether it will impair the free school system we have in Utah?

Mr. VARIAN. It will not affect, I presume, the system outside of Salt Lake and Ogden. I think it will affect the system there. I cannot see for the life of me, why the gentleman from Weber County or from the other counties should desire to hamper us and restrict us in this matter. If he would take the amendment that I would offer, if this motion were denied and read it, with the context of the section after "instructed" in line 10, he will see that it protects us and simply provides for the maintenance and continuance of such high schools as under the territorial law we were permitted to have. We could maintain them.

Mr. EVANS (Weber). My idea is this, if you can point out anything that will impair the system that they now have, I shall vote against striking that out, because I do not intend to impair the system at all. If my remarks have been so understood, they have been misconstrued.

Mr. VARIAN. I will call the gentleman's attention to the section as it will read if this is stricken out.

[Reads.]

Now, if that is not a clear statement of what shall constitute the free school system, I am unable to interpret the language, and if, with that section standing as it does, particularly after the action of this Convention striking out the provisions in relation to high schools—if the Legislature should undertake to create a system of free high schools, for Salt Lake City and Ogden, I submit to the gentleman what the judicial judgment would be as to its power in that particular. And if there is any doubt about it, why should it not be permitted to remain as it may

be explained and modified by the amendment that I would like to offer?

Mr. EVANS (Weber). It is simply empowering the Legislature to do something.

Mr. SMITH. Mr. Chairman, it seems to me that the motion to strike out the balance of this section wants to be considered with very great care. There are established in several sections of the country these high schools and they are a necessary element in our education. We must have teachers, and we must prepare our young men, many of them for various walks of life. If we strike a blow at this higher education and these possibilities, it seems to me that we are doing a grievous wrong to the children and young people of this Territory, and I trust that the motion of Mr. Preston to strike this portion out will not prevail, and that somewhere in the future these amendments will receive further consideration as bearing upon this school system. There are none of us but what believe that the Legislature, so far as it is concerned, would not force it upon any section. The liberty of the people in this matter to make up their minds as to the character of the schools they shall have in their district should not be questioned. It seems to me it would be sufficiently broad and comprehensive in its character, that if any section of the country desires this high school we would not question the intelligence of that people, but put them in a position that their wish could be granted. And I trust in the further consideration of this proposition the motion to strike out that part of the section after the word "instructed" will fail, and that the section will remain as it is, and that at some future time the Convention will consider the proposition as a whole.

Mr. CANNON. Mr. Chairman, I do not understand this antipathy to the high schools or to the university. I do not understand why the gentleman from the third precinct should make

this motion at this time or why we should feel that we are too weak at this stage of our history to support a university. As far back as the 28th day of February, 1850, the provisional government of this then supposed to be State provided for the creation of a university. It was a little more than two years after they had come into these valleys and at that time, though they had scarcely enough to keep themselves alive, though they were poor in every sense of the word, so far as wealth was concerned, they sought to establish then the foundation of this university. Why should we, after thirty-five years, feel too weak to perpetuate an institution which the pioneers themselves attempted to found? For years it struggled along scarcely recognized by public appropriation and attempted to encourage among the people of this Territory a love for higher education and to do that which it could to elevate the educational standard among the people. Why should we now say, that in our Constitution we shall not make mention nor provide for the establishment or perpetuity of this university that was thus early prepared and founded by those who came into these valleys. It is not an unusual provision. It is not unusual for constitutions to provide for the establishment and maintenance of institutions of learning. If we look up Massachusetts—the state which of all others prides herself upon her educational institutions, we will find that in her constitution provisions are contained for the establishment and maintenance of a university; we will find it in many of the other states of the United States, and I cannot understand why any man should suggest at this time that it should be stricken out, and I am opposed to the motion.

Mr. RICHARDS. Mr. Chairman, I sincerely hope that this motion will not prevail. I do not want to detain the committee with a speech on this subject, but it does seem to me that the public

high schools are just as much a part of the public school system and ought to be just as much a part of the public school system, as any other department. Certainly they are as essential as the kindergarten schools. Now, we have accepted them as a part of the public school system. The high school as I say is a part of the public school system, it is a part, not only of the public school system in this Territory, but elsewhere. Take the New England states, from which we got our public school system, those who set the example in this country, and we find that there the high schools are just as much a part of the free school and the public school system, as are the grammar schools or the primary schools, and I endorse what has been said with regard to the university. And one word now on the subject in reply to the suggestion of the delegate from Weber, as to leaving this matter to the Legislature. I think myself that there would be serious danger in leaving this matter to the Legislature. We attempt here to prescribe what shall be done in regard to the establishment and maintenance of public schools, and if we cut this off and say that it shall not be a part of the public school system, I think it is a very serious question as to whether the Legislature of the new State would be enabled to engraft that on to this system. As has been said, it is not asking that these high schools shall be supported out of the general fund. It is only asked that we will make such provision as will permit the localities who desire themselves to maintain high schools, and pay for them by their own taxation, to have that permission, and I think certainly that they ought to have it.

Mr. GOODWIN. Mr. Chairman, the language to be stricken out of the article ought to stop at "schools" then the Legislature would have something to go on. If you state certain things that must be established, the Legislature, if

anything like this committee, will be very liable to say, "We cannot go any farther." Yesterday we legislated all day in the interest of poor men. Today we are legislating in the interests of poor children, and if we keep on we will get to think pretty soon that Utah is too poor to raise an umbrella. It makes me tired. When I think of New England—the people there cutting down the forests, living on indifferent food, but pursuing a career which has made them famous all over the world, doing what, as Daniel Webster said to a friend from the south in reply to the question, "What in the world do you raise on this miserable soil?" He said, "It is too poor to raise anything else, so we built school houses and raised men." We had better cultivate a little of that spirit. We had better build school houses and raise men. Now, about this petty prejudice (for it is that) about the centers getting more advantage than the circumference, there is nothing in it. We are told that a great many children in the outlying counties are too poor to attend the high schools. Possibly that is true. That is their misfortune; but in everyone of those outlying counties and in everyone of the hamlets and villages, there will be here and there a boy and a girl that will want to attend the high school and that boy and girl and the parents of that boy and girl will make it possible for that child to go some place where there are high schools. Again, the whole sentiment here seems to be a sort of a sneer at higher education. These high schools, if they are abandoned—why not stop the grammar schools and leave it all to the kindergarten and conclude that when that is over that we have graduated and that is enough?

Now, the way to support a university is to have a high school. The only thing the university here has been more deficient in than any other is that the students when they entered were not prepared for their courses in that uni-

versity. The question is whether the people in the communities shall say whether they shall have high schools or not, or whether they shall stop right at the door. Those three lines at the bottom of section 3 are an advertisement worth more to Utah than all the money that has been expended in advertising this Territory in the last year. A man from the east with capital and with a family reads that over and says, "Yes, they are providing there for high schools and universities, that will be a good place to go to, that is a good place to recommend other people to go to." The people of a State are estimated by the character of their schools, and I beg this committee, representing every part of this Territory, not to give their schools a black eye, and advertise to the world that maybe after a while, in two or three generations, they will be able to give their children a decent education, but they cannot do it now.

Mr. PRESTON. Mr. Chairman, it is not my object by any means to prevent high schools in the State of Utah, but to encourage them in every way, but my object is that they should be subject to future legislation as the State may be able or get able to support and sustain these high schools. There are common schools in this Territory now that have to close because there are not sufficient funds to carry them on, and I maintain that it is the first duty of the State to give to every citizen of the State a common school education, or a district school education, before we commence to extend lines to establish the higher branches of learning. As soon as the State is able to provide high schools and universities, the arts and sciences and languages, and all this, I should be most pleased to see them provide for it out of the public treasury, if we have anything in the public treasury, but I maintain that it will keep people and capital out of this country if we go to

taxing them to such a fearful extent as it would seem to me that we are piling up. From the recommendations of the various committees that come in before this Convention, we will pile up taxes so high that capital will stay out of the State rather than come in. Of course we want higher education and we want to support it and sustain it as far and as quickly as the State is able to maintain it, but I maintain they are not able to now, and the language of this section, I maintain, is in a dreadful condition at the present time. If the gentlemen who understand more thoroughly think they can make it so clear that there can be no misunderstanding about it, that the Legislature can and may provide for these high schools of education, I am very willing and agreeable to withdraw my amendment or suggestion to strike out that part of it, and to put it in the shape that it may be thus amended here, I will withdraw, with the consent of my second, the amendment.

The CHAIRMAN. The gentleman withdraws the amendment; if there is no objection it will be withdrawn.

Mr. Varian offered the following amendment: Insert after the word "law" in line 13, the words, "And all high schools now established in cities of the first and second class under existing laws shall remain free."

Mr. IVINS. Mr. Chairman, I just want to say a word in regard to this question of education, which has been so generally discussed here this afternoon. In the first place, I want to say in my own behalf, and I believe that in speaking for myself I can speak for every colleague I have on this floor, who comes, as I do, from the outlying counties of this Territory, that there are none of us who are opposed to higher education, that there are none of us who are opposed to any aid that has been heretofore rendered or that may hereafter be rendered to the university of the State of Utah. The record of

past Legislatures in this Territory will show that the representatives of the people in the outlying counties have maintained that institution by voting appropriations for it, and we are willing to continue to maintain it by voting appropriations just so far as any Legislature which may assemble may think that they are capable of doing. This much I wish to be fully understood. There is no opposition from the outlying counties to the maintenance of a State university here. We may perhaps have objections to the maintenance of a great many other institutions of higher learning which may have been almost parallel with this university. Now, if the motion of the gentleman from Salt Lake contemplates that these schools shall be maintained free by such local taxation as may be provided by the Legislature, after they shall have received their pro rata of funds from the general fund, which they are entitled to, I am heartily in accord with it.

Mr. VARIAN. I agree with that. That is the way it was before and that is the way I expected it.

Mr. IVINS. That is the understanding I have of the amendment of the gentleman from Salt Lake, and I am heartily in accord with it, and therefore willing to vote for it.

Mr. HART. Mr. Chairman, I am not certain about this amendment. I think it is going back to the question we have been discussing all the afternoon. The amendment offered by Doctor Maeser would leave the system applying to high schools and university out. We confine it to common schools and kindergartens. Now, this amendment proposes to place some of the high schools free absolutely, so that it cannot be changed by law. Legislatures hereafter may provide for certain high schools. They may provide tuition for these high schools but they cannot provide tuition for these schools that have been so fortunate as to have been heretofore established in Salt Lake City or

in Ogden. In other words, we are liable under this provision to have two kinds of high schools, a free high school in Salt Lake, a free high school in Ogden, which is provided and maintained free by virtue of a provision in the Constitution, and we are liable to have other schools that are part free, but maintained in part by tuition. Therefore, Mr. Chairman, I am opposed to this amendment; I am opposed to the possibility of having two kinds of high schools, and this is the very question we have been discussing all the afternoon.

Mr. VARIAN. Mr. Chairman, I would like to know what the spirit moving the gentleman is. He certainly cannot be ignorant of the position taken on this matter. We are not affecting Cache County. We are simply asking for justice for Salt Lake and Ogden. Suppose it be true that hereafter the Legislature may want to establish, at the request of the citizens of Cache County, a high school at Logan. Suppose the population of that city waxes strong and wealthy, at least in a sufficient degree to demand a high school. Suppose they do not feel able to keep the high school absolutely free. Suppose that the law enacting the privilege would permit the board of education of that city to exact a tuition, if in any degree, is that any reason why we should be denied the privilege of having a high school here absolutely free, if we are able to do it? How can that affect the citizens or the school children or the taxpayers of Cache County? The fact that the people of Salt Lake City desire to maintain that class of schools absolutely free? I doubt not that the citizens of the gentleman's county would like to have a high school there free, but they may not be able to work up to it all at once. It may be necessary to provide for a partly free and a partly tuition school. What argument lies in that then? Simply the argument that the harmony and consistency of the statute book would be

disarranged, because the eye would fall upon a provision relative to Salt Lake, which provided for a free high school, and on the next page it would fall upon a provision providing for a partially free high school in Logan. That is no reason, gentlemen, why we should not be permitted to maintain this school just as we want it. The people have voted away eight hundred and twenty-five thousand dollars to maintain this system. Our children are all in accord with it. The mothers and fathers, the heads of families are in accord with it. We expect to build up this high school. We want to see it enlarged and grow. We look forward to the time when we will be enabled to put up a magnificent high school building, which will be a crowning glory to the public school system in this city, and we are anxious for you, gentlemen, to have the same when you are ready for it, but for goodness' sake do not deny us the privilege because you are not ready now.

Mr. BARNES. Mr. Chairman, probably it is in consequence of the little education I have that I feel this to be a very important subject. In walking around this city, I see magnificent school buildings, of which, I, as a citizen of Utah, feel proud, and I would be sorry to do the first thing that would in any way hamper the citizens of Salt Lake City in educating their sons and their daughters and in providing as far as they can means whereby those in the outlying districts can always be educated. Now, I believe it would be unfair in us who live in the outlying counties to say to the citizens of Salt Lake City or Ogden, "Gentlemen, you shall not—you have no right to have high schools." If they desire to spend their amount of taxes in high schools, it is their business and they should have the right and privilege. That is the way I view it and I think that if this section could be added to Mr. Varian's amendment, it probably would settle the matter, "Provided the entire revenue

derived from the State school fund and the State school tax shall be divided pro rata according to the number of children in each school district in the State." Now, if this is done, gentlemen, when the child who lives in the remote portion of the Territory receives his pro rata, when the gentlemen who have charge of the funds in that neighborhood provide the best means in their power for the education of those children, they have that right. Then, if they have that right, the citizens of Salt Lake City and the citizens of Ogden have the right, I maintain, to provide for their children according to the means in their hands the best education that they can. And therefore, I favor Mr. Varian's amendment.

Mr. EICHNOR. Mr. Chairman, I hope that no gentleman of this committee who has lived outside of Salt Lake City and Ogden will misunderstand the import of Mr. Varian's amendment. We don't ask anyone of you to contribute one cent to the support of our high schools here. We only ask that we are in such a position that we can maintain them and carry on the system that we have started, and carry it on until we have reached the highest perfection in the public system. We do not ask Washington County or Cache County or any other county to contribute a dollar. Only we ask of you, gentlemen, make us secure, let us adopt this amendment and then we are safe, that we can proceed and continue our system, not only for the good of Salt Lake City and Ogden, but for the good of the whole Territory. Gentlemen, I hope that no one will vote against this amendment, because it does not take a dollar from any other county, except from Salt Lake City and Ogden.

Mr. KERR. Mr. Chairman, I think the committee will discover now that a mistake was made when the amendment offered by the gentleman from Utah was adopted. I fully appreciate

the situation with respect to the views of Salt Lake City and Ogden. If I understand the position of the gentleman who offered the amendment, it is this, that without any amendment the clause, "the public school system shall include," etc., would not permit Salt Lake City or Ogden to make these high schools free and hence the necessity for this amendment.

Mr. VARIAN. That is right.

Mr. KERR. I submit that we are not framing a law that can be amended next year or the year after, but we are writing a Constitution for the State of Utah, and we may expect that conditions which prevail in Salt Lake City and Ogden today, will prevail in Provo or Logan, probably five or ten years hence, and if the position of the gentleman from Salt Lake is correct, even should this amendment prevail, the cities of Logan, of Provo, and counties in which high schools may be established in the future and in which the people may be desirous of levying a tax sufficient to make these high schools free, will by this provision in the Constitution be prohibited from making such high schools free. Gentlemen, of the committee, I submit that this entire action on the part of the committee is a mistake. The mistake was made when the amendment offered by the gentleman from Utah, which prohibits any city, district, or county from maintaining a free high school, was adopted. I am in favor of Salt Lake City and Ogden having the power to maintain free high schools if they can raise the means sufficient to maintain such high schools, and I am opposed to prohibiting other cities or other districts in the new State of Utah from maintaining high schools also free if they are able to do so. I am in favor of this amendment in the interests of the schools of Salt Lake City and Ogden, but I am opposed to it, because of it not being broad enough to include all the

cities and districts of Utah, which any time in the future may be able to maintain free high schools.

Mr. HART. Mr. Chairman, I would like to assure the gentleman from Salt Lake that there is no feeling on my part in this matter and that local considerations did not enter into my remarks whatever, but the only consideration was this, as to where the funds are to come from to maintain these high schools. You provide absolutely by the Constitution that these certain high schools already established shall be free, and the only logical inference under that is that they shall be made free in the same way that the common schools and the grammar schools are made free, and that is out of one common fund, and in that way the high schools now established would be maintained out of a territorial fund, while high schools hereafter established would be maintained out of local taxation.

Mr. VARIAN. Will the gentleman, before he sits down, permit me a question? As that remark was in the nature of an interrogatory, permit me to put the reply in the shape of an answer. As I understand it the system and the only system as to the distribution of State school moneys in future, as in the past, is this, there will be a school fund created by taxation, as well as from other sources, the income of which will be used. Annually through the public officers a distribution will be made to come to the different counties and districts of the Territory. Salt Lake County and city will get its proportion, dependent upon the school population. If that proportion is not sufficient for the City of Salt Lake to carry out this scheme, as organized, of necessity the people within the limits of the city will have to burden themselves with additional local taxation to do so.

Mr. HART. I am afraid when you come to divide the fund for the common schools that the construction of this constitutional provision will be

that these high schools now established must come in with the common schools all over the Territory, and take a proportionate part of the territorial fund for them. If there is no question about that, then all the argument this afternoon was to no purpose. As I understand it, that was the main direction to which all the arguments this whole afternoon were directed, and if there is nothing in the suggestion I make, then there is nothing in the objections to the former provision of this section.

Mr. ELDREDGE. Mr. Chairman, I regret to see this school question having reached the condition in which it is at the present time. I believe there is a misunderstanding on this floor, relative to the question, and that there is no disposition on the part of any delegate, it matters not from what part of the Territory he may come, to oppose here schools and even to allow them to continue until they can reach any magnitude that might be within the comprehension of man. Rather than see this motion prevail and to leave this section in the form in which it will be after that prevails, I would prefer to see the motion lost, and then for all that part of this section after the word "school" in the third line, stricken out, so that the only thing upon the question would be the Legislature shall provide for the establishment and maintenance of a thorough and uniform system of free public schools, and leave it with the Legislature to so establish it, that they can reach then everything that would be desired, and it would be then a form in its nature and there would be no barter in the way of going on with the schools that we have not established.

Mr. BOWDLE. Mr. Chairman, I move that the committee now rise and report progress.

The motion was agreed to.

The committee then arose and reported as follows:

MR. PRESIDENT:

Your committee of the whole have had under consideration the draft of the preamble and declaration of rights and recommend that the same as amended be placed on file for its third reading. We desire to report further that we have also had under consideration the proposed article on education and school lands, upon which we report progress.

The report was adopted.

Mr. Button offered the following amendment to RULE XX:

To strike out of RULE XX the following words, "Nor limit be made as to the number of times speaking," and substitute therefor the following words, "No person shall speak but once, except the mover of the motion or amendment, who may speak twice and be limited to ten minutes, without unanimous consent of the committee."

The amendment was referred to the committee on rules.

The Convention then, at 5:28 o'clock p. m., adjourned.

TWENTY-FOURTH DAY.

WEDNESDAY, March 27, 1895.

The Convention was called to order at 10 o'clock a. m. by the President.

The roll was called and members found in attendance as follows:

Adams	Larson, L.
Allen	Lemmon
Anderson	Lewis
Barnes	Lowe, William
Bowdle	Low, Peter
Boyer	Low, Cache
Brandley	Lund
Button	Maeser
Buys	Mackintosh
Call	Maloney
Cannon	Maughan
Chidester	McFarland
Christianson	Miller
Clark	Morris
Coray	Moritz

Corfman	Murdock, Beaver
Crane	Murdock, Wasatch
Creer	Murdock, Summit
Cunningham	Nebeker
Cushing	Page
Driver	Partridge
Eichnor	Peters
Eldredge	Peterson, Grand
Emery	Peterson, Sanpete
Engberg	Pierce
Evans, Weber	Preston
Evans, Utah	Raleigh
Farr	Richards
Francis	Ricks
Gibbs	Roberts
Goodwin	Robertson
Green	Robinson, Kane
Hammond	Robison, Wayne
Hart	Ryan
Haynes	Shurtliff
Halliday	Snow
Heybourne	Spencer
Hill	Squires
Howard	Stover
Hughes	Strevell
Hyde	Symons
Ivins	Thompson
James	Thoreson
Johnson	Thorne
Jolley	Thurman
Kiesel	Van Horne
Keith	Varian
Kearns	Warrum
Kerr	Wells
Kimball, Salt Lake	Whitney
Kimball, Weber	Williams
Lambert	Mr. President.

Prayer was offered by Rev. E. G. Hunt, of the Methodist Episcopal Church.

The journal of the twenty-third day's session was read and approved.

Reports of standing committees.

The committee on legislative reported as follows:

MAJORITY REPORT.

Your committee on legislative, appointed to draft and present an article on that subject, to whom was referred: File No. 3, introduced by Eichnor, of Salt Lake.

File No. 13, introduced by Eichnor, of Salt Lake.

File No. 14, introduced by Maloney, of Weber.

File No. 19, introduced by Hart, of Cache.

File No. 27, introduced by Evans, of Weber.

File No. 28, introduced by Maloney, of Weber.

File No. 38, introduced by Ryan, of Juab.

File No. 39, introduced by Ryan, of Juab.

File No. 51, introduced by Eichnor, of Salt Lake.

File No. 55, introduced by Varian, of Salt Lake.

File No. 94, introduced by Thompson, of Millard.

File No. 100, introduced by Bowdle, of Salt Lake.

File No. 103, introduced by Strevell, of Weber.

File No. 115, introduced by Brandley, of Sevier.

File No. 122, introduced by Francis, of Morgan.

File No. 129, introduced by Kimball, of Salt Lake.

File No. 131, introduced by Bowdle, of Salt Lake.

File No. 138, introduced by Kiesel, of Weber.

File No. 140, introduced by Howard, of Emery.

File No. 154, introduced by Raleigh, of Salt Lake.

Respectfully report that we have carefully considered said propositions, and return the same herewith, together with the draft of an article upon the subject referred to us, and recommend its adoption as a substitute for said propositions.

VAN HORNE,
Chairman.

MINORITY REPORT.

While we approve of the matter presented by the majority of the committee on legislative, and to that extent concur in their report, we are of the opinion that the additional sections which are herewith submitted should be incorporated in the Constitution. They are designed to prevent any grant or appropriation of public property or money by the State or any political subdivision thereof, to any individual, association, or corporation, and to prevent the State, and its counties, and municipalities, from giving or lending credit to private corporations, associations, or persons. Similar provisions have been adopted by other states, and as a part of the organic law, with favorable results, and we respectfully recommend

that these sections be inserted in the Constitution of the State of Utah.

Respectfully,

LORIN FARR,
EDWARD PARTRIDGE,
CHAS. H. HART,
EDWARD H. SNOW,
B. H. ROBERTS,
F. S. RICHARDS,
W. J. KERR.

Members of the committee on legislative.

The committee on apportionment and boundaries reported as follows:

Your committee on apportionment and boundaries report the following article for the Constitution of the State of Utah, and recommend its adoption.

On motion of Mr. Varian, the Convention resolved itself into committee of the whole, with Mr. Kimball, of Weber, in the chair.

Mr. VARIAN. Mr. Chairman, the pending business before this committee is the consideration of the article on education. It is a very long article, and the committee has reached the consideration of section two only. Sufficient has been developed to show that there are considerable differences of opinion existing. In accordance with what I believe to be the feeling of the committee, and at least to sense the same, I move that when the committee rise it report the entire article back to the Convention, with the recommendation that it be recommitted, with the direction that it be remodeled and simplified.

Mr. THURMAN. Mr. Chairman, I would like to ask the gentleman from Salt Lake if his motion contemplates passing from this business now to something else?

Mr. VARIAN. Certainly.

Mr. THURMAN. I am in favor of the motion, but I am in favor of continuing work and going through the article, and get the sense of the Convention on the various parts of it, so that when it is referred back, the committee who has charge of getting up the article can understand something about what the Convention thinks about it.

Mr. VARIAN. The intent of the motion is not as the gentleman understands it. The idea, if this motion prevails, is, that the entire article be removed now from the consideration of this committee and reported to the Convention when the committee shall rise at the proper hour, with the recommendation indicated. It is conceived by many that this article is entirely too elaborate. There is too much in it; and if this committee has to go to work and revise it section by section, it is believed that it will take more time than it will if the committee on education and school lands shall revise it and present a shorter article for the consideration of this committee. If we are to discuss it and debate it section by section, as I am quite clear we will, I know for one, from looking through the article, that there are several propositions, if not more, which will require elucidation, explanation, and perhaps modification, and I am informed by a number of my fellow members, that they entertain the same views, but, of course, it is a matter of no concern personally.

I simply make the motion to test the sense of the committee upon it.

Mr. SMITH. Mr. Chairman, I am in favor of the motion of Mr. Varian on this proposition. We have here presented to us on education some twenty-four sections, in and of itself almost as large as the Constitution of the United States. It seems to me that this class of work is simply going to encumber our Constitution and make it of such enormous proportions that everyone of us will blush for it when it is completed. In looking in the Pennsylvania, I discovered that their article in regard to schools simply takes about eleven lines. New York, if I remember correctly, has about four short sections or five, and ours here strings out a yard long and it is complicated. And it seems to me if it is possible for that committee, in consideration of this matter, to bring to us a proposition on education, which

shall not seem to indicate in and of itself that we propose to legislate upon this question entirely and leave nothing in the future for the Legislature to do, they ought to do it. And I am, therefore, in favor of the motion and trust that the committee will consider it prudent to pass by this matter, but can bring it up in another form by the committee, so that we may be enabled at some time in the future, to accomplish our work. I am satisfied that an entire week will be consumed in the discussion of this matter; the committee itself has been divided upon it, and the discussion before this committee has been almost entirely by the committee on education, or largely by that committee. Therefore, I favor the motion of Mr. Varian.

Mr. CANNON. Mr. Chairman, I think it would be better to allow this matter to go until Mr. Pierce, the chairman of this committee, is present. I do not know whether the gentleman will be here before long, or whether he will be here at all this morning, but as chairman of that committee he could probably tell us better whether or not their report would change the matter if it were referred back to them. If it could be temporarily laid over until he comes, I think it would be better.

Mr. VARIAN. I just want to suggest to the gentleman, that the purpose of this motion is that the instructions of this Convention shall go to the committee to remodel and simplify it. To that extent they must obey the directions of the Convention, if it is so ordered.

Mr. CANNON. I simply wish to state, that that being true, I would favor Mr. Thurman's idea. I do not feel that it would be well to refer this back to them, without telling them in what respect we want it modified, and how we want it simplified.

Mr. LOW (Cache). Mr. Chairman, I wish to state by way of explanation, in behalf of the committee on education and school lands, that that article was of necessity made cumbersome, from

the fact that we gave them an additional committee's labor to perform. We imposed upon them the necessity of making provision for school lands and added that to the duties of the committee on education, and consequently the length of this article; and I am in favor of the suggestion made by Mr. Cannon, postponing the consideration of this question, until the chairman of the committee shall be present.

Mr. CHIDESTER. Mr. Chairman, I am in favor of the motion, but I do not think that the article, comprehending as it does the school land question, is exceedingly long. I noticed in other constitutions where similar provisions have been handled under the same heading, that a general school law is enacted, and then separate and apart from that, the university clause comes in, which if it was simplified in this manner would at least meet all the objections that have been raised here on the floor to the article as it stands.

Mr. KERR. Mr. Chairman, I would like to make a few remarks in defense of the committee on education and school lands. I do not object to having this article referred back to the committee, but I think in view of the statement which has been made, and in justification of the work of the committee on education, I should state that the article is not any longer, when we consider what it contains, than the article in the constitutions of many of the other states, including that of California. As suggested by one of the speakers, we were not limited alone to the common schools, but it includes also all that is to appear in the Constitution on school lands. Now, in California there is a long article on education, another article on state institutions, and then under public lands are the provisions which we have made in this article on school lands. There are really included in this article three matters, one on the general education of the State, one on the State institutions

of higher learning, and one on school lands. Furthermore, Congress has granted to this State upwards of six hundred thousand acres of land for higher institutions of learning, nine million acres of land for the maintenance of the common schools of the State, and in accordance with the provisions of the Enabling Act granting these lands, we have included sections which shall provide for the location and disposition of these lands, and for the investing of the funds. Personally, if this should be referred back to the committee, I think we should have some instructions from the Convention showing just what is required of us. It is not sufficient to say that we should cut it down, because I believe that in the main the committee on education are unanimous in the opinion that there is little that can be accomplished. In what particulars do you desire to have it revised or cut down?

Mr. THURMAN. Mr. Chairman, I favor the motion to report as suggested. At the same time, I think we will save time in the future if we would devote a half hour or an hour in running through this bill, and in determining at least what ought to go out. There are probably a half a dozen sections or more in this article that I am satisfied this Convention will say ought to be struck out, because it is purely legislation, and we could determine that, and that would be an instruction of this committee, or a basis for it when we arise.

Mr. PIERCE. Mr. Chairman, I am opposed to recommitting the article. The committee on education had the article in hand and devoted a great deal of attention and thought to it, and it was in the main, as the gentleman from Cache says, almost unanimous consent that the article was to go in as it is, and I endorse the remarks of the gentleman from Utah County. If there are any provisions here that the Convention does not de-

sire to have inserted in the bill as passed, this Convention ought to notify us what they are as we pass along through. It seems to me, perhaps with the exception of one, two or three sections, that the article ought to stand as it is, and probably will stand as it is with some slight amendments, and I think, as chairman of the committee, I would be at a loss to know what was the wish of this Convention, if this article was referred to the committee as it is, with instructions to make it shorter, and I am opposed to referring it again.

Mr. VARIAN. Mr. Chairman, of course, if we were going to go through this article and spend days finding out just what our views are, there is no use in referring it to the committee. Of course if you are going to do that, we do not need to send it back. Now, it occurs to me that that committee can take this article and look it over, and can see many places where the pruning knife of elimination will be applied. This article has developed as it proceeds into legislation. I think it ought to be remodeled, and I think more, with all deference to the committee, that so far as our State is concerned, at least—the leading educators, and those charged and entrusted with the administration of the schools here, may well be called upon and permitted to give their views to the committee. It is not the design to cast any reflections upon the committee. I suppose that committee is like other committees, they may or may not present views concerning the subject matter committed to them which will be acceptable to the Convention. If they should happen to miss it, it does not imply any reflection upon the committee, but my idea was, Mr. Chairman, that a committee of eleven would be better enabled to revise in the line indicated and strike out everything that may be safely left to legislation, than we. That is, they can do it more conveniently. It is going to take time to

go through this, and when they get through then it can come back to the Convention and be taken up in the committee of the whole carefully. That is the way we feel today, and in accordance with the suggestion of my colleague, Mr. Smith, I suggest that there seems to be no difficulty about many of these subsequent suggestions, modifying them or eliminating them wholly in some instances, and still retain the grand work of constitutional prohibition. The committee should bear in mind, of course, that the State Constitution is a very different matter from the Federal Constitution. The Federal Constitution is simply an instrument in which certain powers are expressly granted by the people to the Congress and the departments of government. Those not expressly granted or by implication are not exercised. The Legislature has full power to do everything in accordance with the function of government unless appropriated expressly or by implication by the Constitution, so that we simply need restraint, not grants of power, not implications of how the law should be, but simply lines of demarcation beyond which the Legislature may not go. Bearing these principles in view, it seems to me, this committee will be enabled to present an instrument here that we can act upon.

The motion was agreed to.

The CHAIRMAN. The next order of business on the calendar of the committee of the whole is the article entitled, "counties, cities and towns"

Section 1 of the article was read and passed without amendment.

Section 2 was read as follows:

No county seat shall be removed unless two-thirds of the qualified electors of the county voting on the proposition at the general election shall vote in favor of such removal, and two-thirds of the votes cast on the proposition shall be required to relocate a county seat. A proposition of removal shall not be submitted in the same county more than once in four years.

Mr. CANNON. Mr. Chairman, I wish to move as an amendment, that the word, "four" in the last line, be stricken out, and the word "ten" be substituted. In explanation of this motion I will state that I do not think it is a good thing to have constant agitation going on in any county as to the removal of the county seat. I think that this has been a serious injury to many counties, not only in Utah, but in adjacent states and territories. I think if a proposition has been settled upon once by vote of the people, a proposition should not be renewed oftener than once in ten years. In that length of time, conditions might have so changed that it would be advisable to remove the county seat. But I think if you leave it that every four years they can be agitating the subject, it may put the people of the Territory and the different counties to a great deal of trouble. For this reason I would like to see the period made longer.

The amendment was rejected.
Section 3 was read as follows:

There shall be no territory stricken from any county unless a majority of the voters living in such territory shall vote therefor, and then under only such other conditions as may be prescribed by a general law applicable to the whole State. Every county which shall be enlarged or created from territory taken from any other county or counties shall be liable for a just proportion of the existing debts and liabilities of the county or counties from which said territory shall be taken; provided, that in such accounting neither county shall be charged with the debt or liabilities then existing incurred in the purchase of any county property or in the purchase of any county buildings then in use or under construction, which shall fall within and be retained by the county.

Mr. VARIAN. Mr. Chairman, I want to ask for information concerning the proposition contained in the first three, four or five lines of section 3, which provides in substance, that no territory shall be cut off from a county without it being affirmed by a vote of the people of that county, but how is it about the

county to which the territory is to be annexed? Is it the intention to permit that to be done without a vote of the majority of the voters of the county to which it is to be annexed? It will be observed that by subsequent provisions, the debt of that county is taken care of, and a proportionate part thereof would be added to the debt of the county to which the territory was annexed. That may have been considered. If that was considered I do not want to antagonize it by offering an amendment unless it is necessary.

Mr. EICHNOR. Mr. Chairman, I do not think it was considered in the committee, only by members individually. I think that lines 4 and 5—"and then only under such other conditions as may be prescribed by law applicable to the whole State" covers it.

Mr. VARIAN. As at present advised I do not like it. I move to amend by adding after the word "territory" the words "and the county to which it is to be annexed." Certainly the burdens of debt ought not to be imposed upon it by the will of the voters of the territory desiring to be taken off from a debt-ridden county and to be annexed to a prosperous debt-free county.

Mr. EICHNOR. I second the amendment.

Mr. RICHARDS. Mr. Chairman, I desire to call attention to the fact that territory may be stricken from one county and yet not annexed to another. It may be creating new counties.

Mr. VARIAN. I will suggest to Mr. Richards, that if it is to create new counties, the territory itself is already provided for. The voters of that territory would pass upon that.

Mr. RICHARDS. Your amendment, as I understand it, would only apply to cases where the territory was taken off from one county and annexed to another, and would not apply to the creation of a new county?

Mr. VARIAN. I suggest to the gentleman that if a new county is to be

created out of a territory belonging to an old county, or out of territory belonging to several old counties, the prior provision would cover the case, "a majority of the voters living in such territory."

Mr. CANNON. Mr. Chairman, I do not think the motion as offered by Mr. Varian would be a just one, unless he would permit an amendment. I would offer as an amendment that the language be changed, so that it would be "as well as of the county to which it shall be attached."

Mr. VARIAN. I have no objection. I will accept it.

The amendment was agreed to.

Mr. BUYS. Mr. Chairman, I move to amend the section by striking out of line 1 the words, "there shall be no territory" and inserting in lieu thereof, the following: "No new county shall be established which shall reduce any county to a population of less than five thousand, nor shall a new county be formed containing a less population than four thousand, nor shall any territory be," etc.

The motion was rejected.

Mr. HOWARD. Mr. Chairman, I would like to provide for an amendment at the end of section 3, by adding the following: "Provided that any public indebtedness, created for any public improvements made exclusively in the territory stricken off, said indebtedness shall be borne by the new county, or by the county to which such territory shall be annexed." I have known of several circumstances, where counties have been separated twice, or a portion of a county taken off and attached to another, where public improvements have been lately made exclusively in that territory, and the old county from which it has been taken has had to assume the debt, when it has been no good to it whatever. I will note an instance of a year ago this winter. Emery County was divided and a new county made out of the northern portion of it. Emery County

had just finished building several large bridges, one of which cost in the neighborhood of \$1100, and the others cost large sums of money, and amounting in the neighborhood of \$3000, and the following winter the county was divided, and these bridges all thrown in Carbon County, and Emery County had to pay for them, and is in debt for those bridges. I think that Carbon County should assume the debt for public improvements made in its territory. This will obviate anything of the kind happening in the future.

The motion was rejected.

Mr. STREVELL. Mr. Chairman, notwithstanding the fact that amendments do not seem to go this morning, I have one which I wish to offer. It is in relation to the creating of new counties where the taxable property is not sufficient to maintain a county organization. I move to amend by inserting in line 6, of section 3, after the word "State" the words, "new counties may be created when the taxable property therein amounts to \$3,000,000 or more and when the majority of the voters residing in such proposed county shall, by a vote at an election held for that purpose, approve of the creation of such county."

The amendment was rejected.

Section 4 was read as follows:

The Legislature shall establish a system of county government which shall be uniform throughout the State, and by general laws provide for precincts or township organization, under which any county may organize whenever a majority of the qualified electors of such county, voting at that general election, shall determine; and whenever a county shall adopt precinct or township organization, the assessments and collections of the revenues shall be made, and the business of such county and the local affairs of the several precincts or townships therein, shall be managed and transacted in the manner prescribed by such general law.

Mr. VARIAN. Mr. Chairman, I move to strike out all after line 4 of section 4. It seems to me that the first four lines

covers the whole subject matter, and the limitation as to any increase in new counties, and for the segregation of territory from one county to be added to another; and all the subject matter after line 4 seems to me to be a matter of detail and legislation.

The amendment was agreed to.

Mr. EVANS (Weber). Mr. Chairman, I now move to amend, by adding the letter "s" and a period after the word "organization."

The amendment was agreed to.

Section 5 was read as follows:

Corporations for municipal purposes shall not be created by special laws, but Legislatures, by general laws, shall provide for the incorporation, organization, and classification in proportion to population of cities and towns, which laws may be altered, amended, or repealed. Cities and towns heretofore organized or incorporated may become organized under such general laws whenever a majority of the electors voting at a general or special election shall so determine, and shall organize in conformity therewith; and cities and towns heretofore or hereafter organized and all charters thereof framed by the authority of this Constitution, shall be subject to and controlled by general laws.

Mr. PETERS. Mr. Chairman, I move to strike out all after the word "repealed" in line 6. That whole part refers to the matter of how states may take advantage of legislation that may be passed for them.

The amendment was agreed to.

Mr. SQUIRES. Mr. Chairman, I move to still further amend that section, by striking out all of line 6. What is the use of saying that a clause may be altered, amended, or repealed.

Mr. VARIAN. Mr. Chairman, I apprehend the object of that is to amend the question of contract. There ought to be a reservation mandatory upon the members of the Legislature, I think, to provide that all franchises or charters of that kind should be subject to repeal. Of course that might not apply to municipal corporations. I admit that.

Mr. SQUIRES. I will withdraw the amendment.

Mr. RICKS. Mr. Chairman, I move to amend by striking out lines 1 and 2 down to the word "the." The words to be stricken out are as follows: "Corporations for municipal purposes shall not be created by special laws, but."

Mr. THURMAN. Mr. Chairman, the amendment ought not to prevail. If we do not provide that corporations shall not be created by special laws, then the Legislature will have the power to create them by special laws.

Mr. VARIAN. Mr. Chairman, I think we had better consider this section a little more carefully. I confess that this is the first time I have seen it—this morning. The question is whether we should not permit cities, certainly of the magnitude and class of Salt Lake City, to have their own charters framed especially. Now, it is doubtful whether a general law concerning the framing of municipal charters will in every particular be applicable to a city after it reaches a certain stage in population, etc. Still, I have not given the matter sufficient reflection and consideration to antagonize or affirm any proposition surrounding this section. I confess there is something about it that I do not just quite understand. Now the proposition to strike out the provision that corporations for municipal purposes shall not be created by special laws, would be all right. I would prefer to see a proviso in some place permitting the creation of municipal corporations by special laws. That is the idea. I would like to hear from the committee whether they considered that question in its application to these larger cities.

Mr. EICHNOR. I will state that I introduced a proposition enabling cities having more than three thousand inhabitants to frame their own charters. It was thoroughly discussed in the committee. The proposition was modeled after the California constitution. I was

the only one that advocated it in the committee. All the other members opposed it very strongly, and claimed that it would create confusion, and I withdrew my proposition. I think the section the way it stands now, is perfectly good.

Mr. HART. Mr. Chairman, I would like to ask the chairman of the committee on legislative, or some member of that committee, if they have reported a similar provision in their article, a prohibition on legislative power.

Mr. PIERCE. Yes, sir.

Mr. EVANS (Weber). Mr. Chairman, I am in favor of the section as it stands. I know that if you strike that out, there will be frequent importunities upon the part of small villages to the Legislature to have special charters. I do not think we ought to do that. I do not think we ought to permit it. I think the Legislature always ought to make general laws for the incorporation of cities. We have had experience in this Territory about that, before the law prevailed, that there should be a general law for the incorporation of towns and cities. Little villages, cities here and there and everywhere, will constantly apply to the Legislature for charters, and I see the trend of modern legislation is to make general laws by which cities containing a certain amount of population may be incorporated without such frequent application to the Legislature. It is an expense for the people to get their representatives together, and look into each particular locality and determine its fitness in incorporated towns.

Mr. MALONEY. Mr. Chairman, this provision was copied from section 10 of the Washington constitution. It seems to me that if this amendment prevails, and these lines are stricken out, it would not leave the act complete within itself, as it ought to be.

Mr. EICHNOR. I would like to inform the gentleman from Weber County,

Mr. Maloney, that it was copied from the California constitution.

Mr. MALONEY. That may be, but it is also copied from section 10 of the Washington constitution.

Mr. THURMAN. That settles it, if it is copied from Washington.

Mr. RICHARDS. Mr. Chairman, I hope this motion to strike out the lines will not prevail. I do not think that we ought to allow the Legislature in an unlimited way to pass special charters.

The amendment was rejected.

Mr. VARIAN. Mr. Chairman, I offer an amendment to be inserted at the end of line 6, "provided that special charters may be granted to all cities having a population of 20,000 or more."

Mr. KIESEL. I move to amend, and make it 15,000.

Mr. VARIAN. Now, Mr. Chairman, I put in 20,000 there on the spur of the moment, expecting the gentlemen to indicate their preference. I accept 15,000; I understand that is to meet the wants of Ogden City. It must be manifest to the gentlemen of the committee that at the present day, as towns grow into cities, and cities increase in population and wealth, and amplify their area, that it is almost impossible, practically impossible, to make a general law applicable to the ever-changing conditions. Everywhere special charters are granted as being adapted to the particular wants of certain cities, differing as they do in different localities in the state, and of course in Salt Lake City we are under practically a special charter now; just as much so as if it was standing out alone from the general statute law. As a matter of fact, the entire system of government in this Territory, from its foundation, has been in accord with this system of special charters. You will remember, gentlemen, that during all the years up to the time when this general municipal act was passed in 1888, each town—each city in your Territory had a special act, each one was a special charter. The general pro-

visions were alike in all, but particular provisions applicable to one city and not applicable to others. We must have special provisions not applicable to other towns and cities in the Territory, in this city. And this provision is necessary because of the provision preceding it, "corporations for municipal purposes shall not be created by special law;" that is all very well as a general rule.

Mr. JAMES. Mr. Chairman, I favor the gentleman's amendment for the reason that this amendment puts into the hands of the people the control of their own affairs, so far as the charter of their cities are concerned, and it is getting down closer to the people, and I believe in that principle, and therefore I shall support the motion.

Mr. ROBERTS. Mr. Chairman, in order that I might vote understandingly on this proposition, I would be pleased if the gentlemen were able to point out some special reasons why a general law providing for the establishment of municipal corporations could not include all the conditions that exist in Salt Lake City. I am not in favor of the proposition with my present understanding of the evils arising out of granting special privileges to particular corporations, and the argument that has been made that the Territory of Utah up to a few years ago had municipal corporations established by special laws has failed to convince me of the wisdom or the necessity of that provision. I am rather inclined to the opinion that the experience of Utah Territory has converted the people away from that system of establishing corporations, and I can see no reason why the Legislature cannot pass a general law in regard to corporations, that will include Salt Lake City and Ogden and every other city in this Territory.

Mr. EVANS (Weber). Mr. Chairman, up to 1886 the Legislature of the Territory had the right to grant special charters for municipal purposes. Ex-

President Harrison, who was then a senator of the United States, drew a law, which is published in our compilation of 1888, by which the legislatures of the territories were required to make general laws for the incorporation of municipalities, etc. Of course, I do not pretend that that law is an inhibition upon the action of this Convention, but I cite it, together with other matters, to show that the general trend of legislation everywhere, in the states as well as in the nation, is to pass general laws for the incorporation of cities. There is nothing that would have prevented the people of Salt Lake from having just such organization as the Legislature would give them under the section as it now stands. For instance, it seems to me that my friend from Salt Lake, Mr. Varian, does not really understand the force of it, or if he does, it was not clearly expressed. The first clause of the section is an inhibition upon the Legislature from passing or granting any special charters for any municipal purpose, but the second clause fully meets the exigencies of the case as stated by the gentlemen who have spoken upon the other side. "But the Legislature, by general laws, shall provide for the incorporation, organization, and classification in proportion to population of cities and towns, which laws may be altered, amended or repealed." Now, in 1892, the Legislature of Utah had under consideration a charter which would affect Salt Lake City alone, because of its numerous population, but when the Legislature considered that law, of course it had to pass it, if at all, in pursuance of the act of Congress of 1886, and consequently called or denominated, "an act for the incorporation of metropolitan cities." It was a charter, which, if it was made acceptable, would have met all the exigencies of Salt Lake City, and were any other city of the same population as Salt Lake City, they would come in under the provisions of that act. It is

wholly unnecessary that each city should apply to the Legislature for those special charters. In fact it would not be right. It would not be uniform. If Salt Lake City were to apply to the Legislature for one kind of a charter, it might have such influence with the Legislature, that it would secure such charter as it desired. Ogden might be in the same class, and apply for a like charter, and not have such influence as to secure it. Provo might do the same, or Logan, or other cities. The idea of the law as it now stands is this, that the Legislature may by special laws provide that municipal corporations may organize or that they may be classified according to the population, wealth, etc. Now, what is there to prevent the Legislature from doing this? It is expressly authorized. The amendment of Mr. Varian would seek to give a city of a certain number of inhabitants special charters. I do not oppose the Legislature, by general law, granting certain charters to cities having a certain number of inhabitants; it ought to do that, because some cities require one character of government and others a different character, but the cities can be classified. Each city then of that class will have exactly the same kind of charter. But if the amendment prevails, one city might have one kind of a charter and another city of the same population and wealth might have a different charter.

Mr. VARIAN. Why shouldn't they.

Mr. EVANS (Weber). I do not think there ought to be any discrimination. One Legislature might grant a municipality in a certain locality through certain influences which are brought to bear upon it most extraordinary power—powers that are not wanted by the people. It is better to legislate in such a way, that when one city is incorporated, another city of the same class must accept of the same provisions that that city accepts of. The reason is this: That when you classify in that way and generalize, the Legislature is composed

of people from all over the Territory. They look after the interests of each particular section of the Territory, and if a few people were to go into the Legislature desiring a certain charter for Salt Lake City, and the people outside of Salt Lake City not being interested at all in it, would say, "all right, you can have just such a charter as you want;" the charter given to Salt Lake may not be the character of a charter that the people of Salt Lake want, although its representatives may be working for it. But when we make them all uniform and classify them, then there certainly can be no danger. My friend from Salt Lake will admit with me I think, that the history of this country is trending in the direction I am talking of; that is a refusal upon the part of the constitution makers, and also upon the part of legislatures, where they are not prohibited by the constitution, to make general laws for the incorporation of cities, but classify them just as we have done here. We have cities of the first, second and third classes. When Ogden City becomes as large as Salt Lake, which will not be very long, then we are entitled to exactly the same privileges that they have. So it is with Provo and Logan. But to say that each one of them shall have a special charter when it arrives at a certain population, is wrong in principle.

The amendment was rejected.

Mr. EICHNOR. Mr. Chairman, I now move an amendment to section 5 by adding file No. 10 which was introduced by myself.

File No. 10 was read

Mr. RICHARDS. Mr. Chairman, it seems to me that this is a matter of some importance. I think the reason why the committee seems to be ready to dispose of the proposition so soon, is because they probably had not given the matter any investigation. I think that this matter should be considered, and I therefore suggest that this amendment be printed, and that we postpone

the further consideration of this section, that is, that we pass the section temporarily until we can have this printed, and give the matter proper consideration. I am opposed to voting down proposed amendments in this way without giving them any consideration whatever.

Mr. WELLS. I second the motion.

Mr. PRESTON. I think that this is strictly on the line of legislation, and it belongs to that body, and I submit it can be very consistently left for the Legislature to frame such laws in regard to the matter as they want, and it does not belong to us as a Convention to consider.

Mr. RICHARDS. Mr. Chairman, I desire to say in answer to the gentleman from Salt Lake, while this is legislation it is no more legislation than anything else that we have done or are doing in this Constitution. It is fundamental in its character. It is simply determining that a charter may be granted in a certain way by certain people. Now, if such a provision as that is not in the Constitution, it cannot be done. The general power that a Legislature has to do this business would not confer that power upon the people as it is proposed by this section. Therefore, it is not objectionable upon the grounds that it is legislation, because it is not legislation in that sense. It is the fundamental law, or it would be if it is adopted. Now, this has been adopted, as I am told, in California with satisfactory results, and with some modifications in the state of Washington, with very satisfactory results, and I say it is a proposition that is worthy of the consideration of the committee. That is all I ask, is that we have it printed and have it before us, and have an opportunity to consider it before we vote upon it.

Mr. EVANS (Weber). Mr. Chairman, I arise to a point of order on the motion made by Mr. Richards, a motion

to postpone in the committee of the whole is not in order.

Mr. RICHARDS. I do not make a motion to postpone, and I insist that the motion is in order. A motion to postpone indefinitely, I do not believe is in order, because that would be an equivalent to a motion to lay on the table, but a motion would be proper to postpone and consider this section at the next session or the next day.

Mr. THURMAN. I am opposed to the motion. I would like to ask for information, whether or not this article was not referred to the committee?

Mr. EICHNOR. Yes, sir.

Mr. THURMAN. And reported back adversely.

Mr. EICHNOR. Yes; I was the only one who advocated it, and I introduced it here at the request of gentlemen deeply interested in municipal corporations. As far as I am personally concerned I do not care, because I introduced it, but I think at the same time, out of due deference to the request that was made, the matter ought to be considered. You can argue it if you please.

Mr. THURMAN. I am opposed to it for the reason it has been considered by the committee and they have deliberated upon it. They brought in a substitute and the house has already expressed by an overwhelming vote, its sense against this kind of legislation, and I think there ought not to be such legislation in the Territory of Utah. There is no reason—there is not a single power that Salt Lake, Ogden or any other town can point to to-day as a necessary power that is not to be found in the general law, and if they are not in the general laws, they can be put into the general laws, and be adopted whenever the city reaches that degree of prominence and importance that renders it necessary. I am not in favor of special legislation of any kind, either in favor of municipal or private corporations.

Mr. JAMES. I am in favor of Mr. Richards' motion for the reason that

probably some of us are not quite so well informed upon the necessities of cities as Mr. Thurman, who has just spoken, seems to be. Now, let us have an opportunity to look into the matter; I do not think it will do any harm.

The CHAIRMAN. The motion now pending before the committee is the motion of Mr. Richards to pass section 5 for the time being.

The motion was rejected.

The CHAIRMAN. The question now recurs upon the amendment offered by the gentleman from Salt Lake, Mr. Eichnor.

Mr. FARR. I do not understand why it is that this Convention wants to tie up the hands of the Legislature and confine them down to a certain routine and route. Why not let them have some latitude to work, as seems under the circumstances to be for the best good of municipalities? I do not understand why we are legislating so much in order to tie up the Legislature. I think the Legislature should have power to draft special charters on special occasions, and I could give my reasons why. I will read a suggestion—a proposition which I do not seek to adopt or make any remarks on, if it does not obtain a second it can go for what it is worth, which I think will cover the entire section. I do not see any provision in this bill providing authority to the Legislature to incorporate cities, hence I offer a little suggestion here, which will cover, I think, the whole section, and will provide for the whole business of municipal corporations:

“Section 5. The Legislature shall provide by general law for municipal corporations.”

This covers the whole business, gentlemen. If they can provide by general laws, they can provide, if they want to, for any body of men, of four, five, six, or ten thousand. If they see fit to give them a charter, they have a

right to, and they have a right to organize under general laws, hence I make this suggestion that the Legislature shall provide for corporations, which will cover the whole ground.

Mr. VARIAN. I second the motion.

The motion offered by Mr. Eichnor was rejected.

The question was taken on the amendment offered by Mr. Farr; the committee divided and the amendment was rejected by a vote of 36 ayes to 45 noes.

Section 6 was read and passed.

Mr. RICKS. Mr. Chairman, I move now that the committee now arise and report progress.

Mr. VARIAN. Does that include the report of this section showing its adoption?

Mr. RICKS. Yes.

The motion was agreed to.

The committee then rose and reported as follows:

MR. PRESIDENT:

Your committee of the whole have had under consideration the article entitled education and school lands, and report the same back to the Convention with a recommendation that it be referred back to the standing committee on education and school lands for modification and simplification. Your committee further report that they have had under consideration the article entitled counties, cities and towns, and have adopted the same with amendments, and report the same with the amendments to the Convention with a recommendation that it go on the calendar for a third reading.

The Convention then, at 11:50 o'clock, took a recess until 2 o'clock p. m.

The Convention re-assembled at 2 o'clock p. m. with President Smith in the chair.

Mr. KIMBALL (Weber). Inasmuch as the regular order was not passed this morning, because of the declaration of rights not having been printed as amended, I now move that we go back to the regular order, and take up the declaration of rights on the third reading.

Mr. RICHARDS. Mr. President, I hope that this motion will not prevail. A number of very important amendments were made to this declaration of rights, and we have not had an opportunity since it was printed to give it the examination that it ought to receive before being read the third time. I think it ought to go over until to-morrow and give us an opportunity to examine it carefully, and individually, before it is brought up on a third reading.

Mr. ANDERSON. Mr. President, I would like to ask if that has been printed and distributed yet?

The PRESIDENT. It is being distributed now.

Mr. RICHARDS. Then I suggest it is manifestly hurrying things too fast. We have had no opportunity whatever to examine it, and the hurried reading of it here in the presence of the Convention is not sufficient.

Mr. WELLS. Mr. President, I just entered and do not know what the subject for discussion is, but I take it from Mr. Richards' remark, that the proposition is to take up the declaration of rights now.

The PRESIDENT. That is the proposition.

Mr. WELLS. A number of the delegates have asked me when the matter came up to move that it be deferred until to-morrow, so that they may have to-night to look over the printed copy and consider it a little further. If it is in order, I will make that motion as an amendment.

The amendment was agreed to.

Mr. RICKS. Mr. President, I now move that we go into committee of the whole, to consider the order of the calendar.

The motion was agreed to, and the Convention resolved itself into committee of the whole, with Mr. Kimball, of Weber, in the chair.

The CHAIRMAN. Gentlemen, the next order of business on the calendar of this committee is the report of the commit-

tee on schedule, future amendments and miscellaneous, and the article reported by them entitled, "amendments."

Section 1 was read as follows:

Any amendment or amendments to this Constitution may be proposed in either house of the Legislature, and if two-thirds of the members elected to each of the two houses shall vote in favor thereof, such proposed amendment or amendments shall be entered on their respective journals, with the ayes and noes taken thereon, and the Legislature shall cause the same to be published in at least one newspaper in every county of the State, where a newspaper is published, for three months immediately preceding the next general election, at which time the said amendment or amendments shall be submitted to the electors of the State for their approval or rejection, and if a majority of the electors voting thereon shall approve the same, such amendment or amendments shall become part of this Constitution.

If two or more amendments are proposed, they shall be submitted in such a manner as to enable the electors to vote on the same separately.

Mr. RICKS. I move to amend line 21 by striking out the word "same" and inserting in lieu thereof, "each of them."

The amendment was agreed to.

Section 2 was read and passed without amendment.

Section 3 was read as follows:

Any constitution adopted by such convention shall have no validity until it has been submitted to and adopted by a majority of the electors voting at said election.

Mr. RICKS. Mr. Chairman, I move that the words "of the State" be inserted between the words "electors" and "voting," in the fourth line.

The amendment was agreed to.

Mr. HOWARD. Mr. Chairman, I would make a motion that we amend section 3 by striking out the word "said" in the fourth line, and inserting "the next general election."

Mr. THORESON. Mr. Chairman, it appears to me that by referring to line 4 of section 2 we find the following: "they shall recommend to the electors

to vote at the next general election for or against a convention." Now this other refers to said election.

Mr. HOWARD. Mr. Chairman, that provides for the electors to vote on whether they shall have the convention or not. It does not provide for the electors to vote on the question of the revised constitution.

The amendment was rejected.

Mr. LOW (Cache). Mr. Chairman, I move you to amend section 3 by inserting after the letter "a," in line 3, the words "two-thirds."

The CHAIRMAN. I hear no second to that amendment; unless I hear further amendments, the article entitled "amendments" has passed this committee.

Gentlemen of the committee, the next order of business on the calendar of this committee is the report of the committee on elections and right of suffrage.

Mr. SQUIRES. Mr. Chairman, I move the committee now rise and report on the article just passed.

The motion was agreed to.

The committee then rose and reported as follows:

Your committee of the whole have had under consideration the article entitled "amendments," and after consideration of the same, report the article back to the Convention with amendments, and recommend the article and amendments go on the calendar for the third reading.

The report of the committee was adopted.

The minority on elections and right of suffrage reported as follows:

Committee Room, March 27, 1895.

To the President of the Constitutional Convention:

The minority of your committee on elections and suffrage regret that they feel it their duty to disagree with the majority of the committee on the question of woman suffrage in Utah, and beg to present, briefly, their reasons for such disagreement.

We do not seek to dispute in the least the argument that in all intellectual attributes and attainments women are

qualified to vote as intelligently as men, except that women are better than men; they are ruled more readily by their sympathies, impulses and religious convictions, and do not realize as much as men that law is an arbitrary and imperial machine, and knows neither impulse nor sympathy.

But conditions are presented to us that never confronted a people before. The masses of people of Utah have only just begun to study seriously the principles of the government of the United States, and the duties which pertain to citizenship. They have been reared in a school which taught sincere allegiance to a local government and in that allegiance has been woven an absorbing affection and pious devotion. It is hard for a woman's nature to swiftly change, when her sympathies and sense of duty have long controlled her in a particular channel.

Again, it is but a few years since the Congress of the United States thought it necessary to withdraw this privilege from the women of Utah, because in the friction between the nation and the ruling power in Utah, the sympathies and devotion of the women, all bending in one direction, in the judgment of Congress made it necessary to take suffrage from her, in order to begin to place this Territory in harmony with the Union under the laws.

A widespread fear prevails that with the privilege restored, the old overwhelming force would destroy the present equality of parties—which always leads to confusion, if not tyranny—and awaken a terrible temptation on the part of those who ruled before, to resume their sway by working upon the generous impulses and religious instincts of women, which would result in political, if not social and business, ostracism of the minority.

This feeling is not only widespread throughout Utah, but it awakens keen apprehensions and forebodings throughout the nation at large.

As a people we are poor. We need the strong arms and the capital of the more thickly settled portions of our country.

To adopt the report of the majority will be to keep both away until the unnecessary experiment may be tried.

But it is not on selfish grounds that we interpose this report. We are looking not only to the prosperity but the future peace of this region. Surely no one desires a return to the contentions which prevailed here only seven years ago. As true citizens, none of us can look forward with anything but apprehension to the possible placing of the entire power of the government of the new State in the hands of a power in

our midst which might easily, under statehood, become omnipotent.

We are reminded of the pledges of respective political platforms, we do not forget them, but we remember likewise that all platforms are changed from year to year and we are forced to take cognizance of the fact that a most decided change of thought has been wrought on the people of this Territory on this particular subject, since they began to seriously contemplate the possible results of the carrying out of the will of the majority of this committee.

Why not permit the question, which is making so much unrest in the thoughts of men, to be held in suspension for the present?

With the adoption of the Constitution, a Legislature will speedily be convened. The members of that body will come directly from the people. Why not leave the question to them?

We respectfully oppose the report of the majority of your committee, and recommend that the suffrage of women be kept out of the Constitution.

Respectfully submitted,

R. MACKINTOSH,
FRED J. KIESEL,
ROBERT MCFARLAND.

Mr. MACKINTOSH. Mr. President, I move that the report be received and printed.

Mr. PRESIDENT. Under the rule it is to be printed and goes to the calendar of the committee of the whole.

What is the pleasure of the Convention?

Mr. THURMAN. Mr. President, I move we resolve ourselves into committee of the whole for the consideration of the regular order.

Mr. WELLS. Mr. President, I do not think it is usual to print reports. The matter submitted for consideration to go into the Constitution is always printed, but reports of committees are not as a rule printed. If it is desired to have this one printed, it would be unusual. I have no objection to it.

Mr. KIESEL. I think the majority report has been printed.

The PRESIDENT. I will read rule 19. (Reads.)

Mr. THURMAN. That does not necessarily say that the article reported by the majority shall be deferred; it does

not even intimate that it shall be, and when I made my motion for the regular order, I understood the regular order to be as indicated on the board.

Mr. CANNON. Question on motion.

Mr. ROBERTS. I think that the rule read by the chair is very emphatic on this question. Every ordinance, proposition or other matter for insertion in the Constitution when reported by any committee, shall, with all reports thereon, without further order, be printed and referred to the committee of the whole. The gentleman undertook to say that only the part that is proposed to be inserted in the Constitution ought to be printed. The rule, however, is emphatic, that all reports thereon, which, of course, contemplated the minority report as well as the majority report, and I cannot understand how the Convention can resolve itself into committee of the whole and consider this matter of election of rights of suffrage now, for the reason that here is a report which is not printed and not properly before the committee for its consideration. I wish further to say on this subject, that this proposition proposed brings before the Convention, and before the committee of the whole, the most serious question that it will have to consider; and while, perhaps, the gentlemen who made that minority report, will also be in the minority both in this Convention and in the committee of the whole, I nevertheless believe, sir, that a careful consideration of those suggestions that they have made, ought to be entertained by this Convention and by a committee of the whole, for the reason, according to the judgment of this report of the minority, this question puts in jeopardy the very Constitution that we are framing itself. I say that we ought not to go into a consideration of this subject until this minority report of the committee shall be printed and be before members for their serious consideration.

Mr. CHIDESTER. That is exactly

the condition of things that I was looking for the other day, when I made a motion to make that a special order that it might come up. Now, you see that my fears have been realized; that this minority report comes in here just in time, if their theories are correct, to postpone this matter and put it off. Now, then, I submit that this is not proper, that this business is not on the calendar and it should be considered in the order in which it is placed on there, and the reason that their report is not in is no reason why we should defer this matter—

Mr. ROBERTS. Will the gentleman permit me a suggestion?

Mr. CHIDESTER. Yes, sir.

Mr. ROBERTS. The report of this committee is now in and before this Convention.

Mr. CHIDESTER. And the report of that committee should have been in before [laughter], for the reason that they had due notice of the action of the majority of this committee, and that this section that they opposed would be reported favorably, and from the very first day that the committee met they knew of its action, and they were as well prepared to make their minority report then, as the majority was to make theirs. And now then, sir, to postpone this matter and lay this over so that other measures would come in ahead of it, is unjust and unfair, and is not treating the majority of that committee fair. They claimed it as unfairness before, but what are they doing now? How are they treating the majority? When we stated that we believed that this was their design to fetch in their minority report in this kind of a way and thereby postpone this matter for some purpose that they may have in their heads. I believe that it is unfair and for that reason I oppose it.

Mr. EVANS (Weber). Mr. President, I do not think that I ought to take any particular part in this question at this

time except as a member of the committee on rules. It may be that the committee on rules would differ with me in my opinion as to rule 19, but I have a very decidedly difference of opinion from those who have urged that this matter should now be printed, and that it should be taken up after the printing of the minority report. Certainly that rule applies to the report of the committee and all other reports thereon; it contemplates that the minority report should be in at the same time as the majority report. What other construction can be put upon this rule? Have not the minority had just as much time to report as the majority? Can they delay their report until the very moment that this matter is to be brought up to be considered in committee of the whole and then invoke this rule? I say that in fairness they cannot do it. According to the fair construction of the language, they cannot do it. It contemplates that the majority report and the minority report should be filed all together, and it should not be placed in the power of the minority to say when they shall report for the purpose of delaying the matter, even of such importance as this.

Mr. THURMAN. I desire to ask the gentleman a question. Is it not the fact also, that that rule contemplates that the minority report, if there is one, shall contain some propositions to be inserted in the Constitution in order to permit it to be printed?

Mr. WELLS. Mr. President, I arise to a point of order. I understood the president to rule upon this question that this rule would be printed. I raise the same point that Mr. Evans has now raised, that some time ago, as I understood the president, he ruled that the matter should be printed.

The PRESIDENT. I ruled that under that rule it should go to the committee of the whole after being printed.

Mr. WELLS. Then I submit that the

matter can only be reached by an appeal from the decision of the chair.

Mr. EVANS (Weber). I understand that the order so far as this minority report is concerned, should stand just as the president has directed. The minority report should be referred to the committee on printing for the purpose of having it printed, but that does not necessarily imply that there should be a delay of this matter. If that rule should obtain here, the report of the committee on elections and right of suffrage will go down to the order of nine; it will take the foot of the calendar, and the very object of the gentlemen here and their purpose will have succeeded.

Mr. ROBERTS. I wish to ask Mr. Evans a question. I agree with him when he says that the order of business in the matter of committee reports, contemplates that the minority report and the majority report shall come in before the Convention together. But was not this privilege denied to the minority on the part of the majority in this instance?

Mr. EVANS (Weber). That I do not know. I know that the question was raised here and there was a disposition to give the minority time, and I was one of those who believed in granting the time, but that does not necessarily imply that they should take their own time for reporting. I raise this matter as a question of principle, because if this course is to be pursued with other matters, a minority report might be brought in upon any measure which is bulletined, and that would necessarily retard the entire work of the Convention.

Mr. WHITNEY. Mr. President, in support of the remarks made by the gentleman who has just taken his seat, I wish to remind the committee that in the Congress of the United States there is no such thing as a minority report; it is the majority that makes the report, but the minority have the privilege of filing their views, and they are always

called the views of the minority in the report proper.

Mr. ANDERSON. Mr. President, I am in favor of the motion of Mr. Thurman for this reason: that the report of the majority has been referred to the committee of the whole and should come up in its regular order. The report of the minority can come up at some future time in its order; I would not object to that, but I do not think it would be fair to postpone the consideration of this in the regular order, which would put it the ninth in the order of business. Now, again, explaining the—

Mr. ROBERTS. I would ask permission to submit a question to the gentleman?

Mr. ANDERSON. Yes.

Mr. ROBERTS. What material hurt to the question will it do if it is put ninth on this calendar? I presume, sir, that there are twenty-six reports of the twenty-six committees; I submit to the gentleman that there are twenty-six standing committees to report, some of them will make two or three reports. Since we are to have twenty-three numbers on the calendar of the committee of the whole, what great harm will come to this question, if it should stand so far down as number nine on that schedule?

The PRESIDENT. Eleven it would properly be.

Mr. ANDERSON. The minority have had ample opportunity to prepare their report. The second day that the committee met we passed upon and adopted this resolution, and they gave notice then that they were going to put in a minority report, and they kept reminding us of that nearly every day of our session, and they have had the last two weeks to prepare this minority report—

Mr. ROBERTS. I wish to submit another question to the gentleman and that is this: You remarked that the first day this question of suffrage was considered, that the minority of the committee knew from that time that this

report would be made; is it customary, sir, to conclude that the committee will in no case change its mind, and is it not right on the part of the minority to presume, or rather believe, that there is a possibility of changing the mind of that committee; and they cannot, sir, be properly supposed to be able to reach the conclusion what the majority report will be until it is made out?

Mr. IVINS. I would like a ruling of the chair on what it takes to constitute a question, Mr. President?

Mr. LOW (Cache). Mr. President, I move the previous question.

Mr. RICHARDS. I ask the gentleman to withdraw his request for the previous question just a moment, until I make a suggestion of a point that has not been raised yet, which I think will solve this question. Will the gentleman consent?

Mr. LOW (Cache). Just for this one case.

Mr. RICHARDS. I am in favor of this motion for the reason that I think it ought not to lose its place, and this is the point I desire to make. There are fifteen sections in this article; now if it be true that fairness to the minority requires that their report should be printed before the committee of the whole act upon the first section, we can still go into committee of the whole and act upon the fourteen sections that follow, and be saving time, and this article not lose its place, and then be prepared to take up the first section when the report is printed. I do not say that is due to the minority, or that the rules require it, but I make that suggestion, it can be done if desired.

Mr. THURMAN. Mr. President, I ask permission to make a suggestion. I do not know whether my friends in this majority will agree to it or not, but I understand the other side—the minority of the committee—are willing to make this the special order for to-morrow morning, giving it the right of

way over every other question. Now, if that be true, and we can make it so for to-morrow morning, so far as I am concerned, if those who support me on this motion will consent, I am willing to withdraw my motion to go into committee of the whole and make it the special order, giving it the right of way to-morrow morning. I understand that will suit the minority.

The PRESIDENT. The main question has been withdrawn.

Mr. CHIDESTER. I arise for information. My understanding was, that they propose to allow this to be made the special order for to-morrow morning. Now, if it is in order I will make a motion, that it be made a special order for to-morrow morning after the usual program.

Mr. EVANS (Utah). Mr. President, I submit the previous question is the thing to be put.

Mr. LOW. Mr. Chairman, I arise for the purpose of withdrawing—

Mr. EVANS. I object to him withdrawing and I demand the previous question.

The PRESIDENT. I ruled upon it and the thing is gone by. The question is on the motion by Mr. Chidester that this matter of suffrage be fixed for to-morrow directly after the regular order.

Mr. IVINS. Mr. President, now I wish to say a word in regard to this question. I am opposed to it. In the beginning it can only be done by a suspension of the rules. We have tried twice before in this Convention to make this matter a special order and in both instances we have failed, and there is no reason to believe that we will be any more successful in suspending these rules this afternoon than we have hitherto been. The gentleman asked why the majority should be so anxious to have it come up for immediate hearing. I want to answer that question by asking why it is that the minority are so very anxious that this question

shall be continually postponed? They have had plenty of time to get in their report. Gentlemen, I believe that right now and here is the proper time to take this question up and decide it, and therefore, I am opposed to this motion, and I wish to offer an amendment to it, a renewal of the question made by the gentleman from Utah which was withdrawn, that we now go into committee of the whole and consider the regular calendar.

Mr. ROBERTS. Mr. President, I wish to speak to the question, and also to answer the gentleman from Washington. The gentleman has asked the reason why the minority of this committee have been desirous of postponing this question, and I want to answer that. In the first place, I am not on that committee, nor have I anything to do with their minority report, but when this report on the part of the majority was made, the committee reached, as I am informed, its final conclusion at a meeting about 12 o'clock in the day; it came into this Convention at 2 o'clock, made its report and asked that it be printed and be made a special order for Tuesday last. The minority of that committee then stated that they desired to make a report, that only about two hours before had the committee suddenly concluded to make its report that day, they asked sufficient time to make their report, but, gentlemen, in arrogance, refused to allow them that time, and as I said before I say now, they treated that minority with scant courtesy, because this question could have been discussed five or six days later as well as at that time. One gentleman of the majority of that committee took exceptions to this making any delay on their report, and rushing this thing through the Convention; they at that time assigned motives both to the minority of this committee and also to gentlemen who differ from their report. They then stated that there were tricks, that there were traps being laid to de-

feat this majority, and from that time until now, every movement on the part of those who wish to floor the consideration of this question before the Convention, have been stigmatized with improper motives, which I here, so far as I am personally concerned, resent and say they are not true.

Mr. EVANS (Weber). Mr. Roberts, may I ask you a question?

Mr. ROBERTS. Yes, sir.

Mr. EVANS (Weber). Are you on that committee on elections and right of suffrage?

Mr. ROBERTS. No, sir. [Laughter.] I wish to say, however, that since I took the floor in connection with this minority and undertook to speak with them in repelling these charges, that there has not been a gentleman that has spoken on this subject from the first, to the gentleman from Washington who just now took his seat, but what has attributed not only to the minority of that committee but to every one who has spoken with them, the same improper motives, and they have been applied to gentlemen who have worked with them, as well as to the minority of the committee itself, and it is useless for men to undertake to deny it, because it is true; the whole membership of this Convention, who do not have the virtue of seeing eye to eye with a majority of this committee, and gentlemen upon this Convention, have been charged with these improper motives. I resent them, they are not right, they are not proper, and I say that these remarks directed to gentlemen of the minority of this committee have been applied to the rest of us who do not see eye to eye with that committee, and the audible smile of the Convention is out of place in that matter. I say that it has reflected upon every man who has not seen eye to eye with that committee. I second the motion to make this a special order for to-morrow morning. Are gentlemen truly afraid that deferring it until that

time, when it shall have the right of way, that there are some pitfalls or that there is great danger of having the ground removed under their feet, and they will suddenly discover themselves in a hole? Why gentlemen, truth—correct principles have nothing to fear from delay; as I understand it, it is always calm, it is always ready that its opponents should sharpen well their weapons and make an able attack upon it, and this feverish insight on the part of the gentlemen is not complimentary to this assurance upon this subject. And now, then, the deferring of this matter until 10 o'clock to-morrow morning gives opportunity for that report of the minority to be printed. Gentlemen will have it before them for their consideration, and they will have all the opportunity that they certainly need to speak upon the subject.

Mr. GOODWIN. There will be more ladies in the world to-morrow than there are to-day. I don't see why this hurry comes up. The committee reported forty-eight hours ago, if I remember correctly—the majority of them, at that time one of the minority gave notice that the minority would produce a report; we are equal in point of fact on this floor. If we go into this investigation to-day, we go in on one side, and it seems to me if the motion is to prevail, it ought to read, "that we go into committee of the whole to consider one side of this question." What is the hurry? What is twenty hours going to do? I take it that every one of that committee, minority as well as majority, are honorable gentlemen; they both have filed a report. The gentleman that has addressed us on this matter, who will, I take it, be the leader on the one side, recognizing that some courtesy was due the minority, kindly withdrew his motion to consider this matter this afternoon, and said if it can be fixed for 10 o'clock to-morrow morning, he would be content. But some other gentleman would not wait that long. Now, it

took three weeks and over for the majority to report, and possibly they began two days sooner than the minority. It is an extravagant waste of time that the minority have absorbed in making up their report, we do not know but what they spent all their time in trying to convert the majority of that committee. It seems to me we cannot all keep good natured on this subject, and with the courtesy that we would like to ask for ourselves we can gracefully extend to others, all being equal, all wanting to do the right thing. I hope this motion to rush this thing on this afternoon will be voted down, and that it be set for to-morrow morning, when we will have all the reports and it will give some gentlemen two or three speeches in its consideration. If this goes on this afternoon, speeches will be made by those who favor the majority report, they will want to make another speech to denounce the minority report. Had not we better get it where we can condense it all into one? We have got plenty of time. Our salaries are not such a consideration that one day will make any special difference, and besides there is plenty of work to do this afternoon. Let us be reasonable. It is a very serious thing when we reduce the ladies of a great State from the position which they have occupied, down on the level with common men like ourselves.

Mr. CANNON. Mr. President, I will state that instead of the report being made by the majority forty-eight hours ago, it was made two and a half times that length of time. And in the first place, at the time the report was made, and at the time the special order was asked, personally I opposed the motion for a special order, on the ground that I wanted to see the minority have time to introduce their minority report. Later, on becoming convinced from that which was told me, that the minority report would probably not be presented until the article was ready for consideration by the Con-

vention, I favored a motion which was made setting to-day as the day upon which this proposition should be made the special order. At that time the gentlemen who favored the minority report were strenuous in advocating the course of letting this matter come up in its regular order, and when the objection was raised, that the very action that is now proposed would be proposed by the minority, it was asserted on behalf of that minority that when the regular order came up—that whether or not the minority report had been presented, the matter should be considered. I desire to call attention to rule 21, and that we can only change this by a suspension of the rules. I also desire to call attention to the fact, that as I understand it, this minority presents no proposition for insertion in the Constitution; it simply opposes one of the sections proposed by the majority of the committee, and, in the language of the gentleman from Davis County, if those who favor the minority report are so “cock-sure” of their position, why are they in such an “all-fired” slow mood about bringing it about?

Mr. MACKINTOSH. Mr. President, as one of the minority, I wish to make a little explanation. I think it will allay a good deal of the irritation and feeling that is here presented, and that is this: last Saturday I went into the committee room about eleven o'clock or half past. I was told that the majority report was going to be made. Mr. Kiesel and myself urged upon them to delay it; we had not considered and we wanted to consult with ourselves and the other gentleman, Mr. McFarland. They would not hear it. The gentlemen said that there were schemes on foot to delay this matter in order that it would be beaten in the Convention. Now, on that day, Monday, when it came up it was proposed for a special order of business—Mr. Kiesel left town on Sunday and did not arrive here until yesterday. I have never had an oppor-

tunity until yesterday afternoon to consult with him on the matter, and I was very much surprised when I arrived here—I was not at the Convention this morning—we were so near the majority report of the committee on suffrage. I got Mr. McFarland and Mr. Kiesel. We talked the matter over. Certainly we had the report all written and that was the cause of the delay. If Mr. Kiesel had been here, had not gone out of town for two days, I think we would have had the report already, and we are perfectly willing to have it come up tomorrow morning, and if the Convention says so, now, for that matter.

Mr. CHIDESTER. Mr. President, I wish to say that so far as the gentlemen are concerned, that in the committee they have acted very fairly—very fairly; there has been no particular harangue about this matter. There has been more done here than anywhere else, but it seems to me that they have procrastinated their time; while notwithstanding all of this if it was agreed by this Convention that it might come up tomorrow morning at 10 o'clock without any failure, I would not object, but the danger is in letting it go to the foot of the calendar; that I would never consent to, because we have done our part. Now, as to improper motives, all that has been said has been brought out simply by the actions of men here on the floor, and it seems to me to have borne out that proposition, and I presume I have said more in regard to that than anyone else, and I am willing to stand under it. I believed at the time there was some scheme afloat to defeat this or throw this back, and to let it take its place behind other matters until they could be re-inforced, and bring what force they could against it, and such forces that I knew not of. And for that reason I deemed it my duty and my place to insist upon that being favorably considered, and fairly considered, with all due speed, but not in undue speed. But now that the matter has

got where it has, I see no other position only that it shall come up in its regular order and we will go ahead with the business.

Mr. WHITNEY. Mr. President, I wish to sustain the proposition to postpone this question until 10 o'clock to-morrow morning, or until the time arrives when it is proper to take it up.

Mr. CHIDESTER. Mr. President, I ask unanimous consent now for it to go over until 10 o'clock to-morrow morning.

The PRESIDENT. Mr. Whitney has the floor.

Mr. WHITNEY. I see no need of any anger or irritation over this matter, neither do I see any need of hurrying the matter this afternoon. I do not see eye to eye with the majority who have made this report or the minority upon this question upon this floor, but I am perfectly willing to give them the time they need to gather their weapons. I think they will need them, and let us give them all the time they need, or at least until to-morrow morning. Truth can afford to be calm and composed, as has been stated, and let truth and error come in conflict, truth was never worsted in any encounter; though crushed to earth she will rise again. I am perfectly willing that the minority shall have this small respite.

Mr. ANDERSON. Can a member withdraw a motion without the consent of the second?

The PRESIDENT. I should think not.

Mr. ANDERSON. I second Mr. Thurman's motion.

The PRESIDENT. That is all behind us. We are on a new—

Mr. ANDERSON. I object to that.

Mr. RICHARDS. I think that the majority can afford to be generous on this matter, and I am willing that my friends on the other side shall have until to-morrow morning to get ready for the fray. As has been suggested, they need all the time, and they need the

preparation, and I am perfectly willing for that, but I would like to have it reached in a different way from that suggested. I desire to have this, inasmuch as it has been insisted upon by the minority—that it shall not be made a special order up to the present moment when their convenience indicates it should be made a special order—I say let it retain its place as the regular order, and let's go on with other business, and let it stand here until we are ready to take it up to-morrow morning at 10 o'clock, or as soon as the preliminaries of to-morrow's session are over. That is my notion of disposing of the matter, not make it a special order at all, but concede to them that this question shall not be taken up until to-morrow morning, but that nothing else shall be done here in place of it unless it be by suspension of the rules, that we might go on and consider the subsequent sections of this article, which I think we might do with profit, because there are propositions in the subsequent sections of the article, and the report of the majority and the minority only relates to the first section. There are propositions in other sections which I believe will require discussion and consideration, and I think that we might go into committee of the whole and consider those sections this afternoon, and let it retain its regular order and still not reach the difficult question they desire to have postponed until to-morrow morning. I am willing that they should have the time, but not willing that this should lose its regular order.

Mr. THURMAN. I desire to state that when I made the suggestion that I was in favor of letting the matter go over until to-morrow morning, it was with the distinct understanding that I had the unanimous consent of my friends. They did not consent, but, however, the motion before the Convention at the present time is, shall this go over and be made the regular order for

to-morrow or a special order? Now, I wish to ask a question, if it becomes a special order, it will be after the third reading of bills is disposed of?

The PRESIDENT. Yes, it will come at the foot of the calendar, as I understand it.

Mr. THURMAN. Then I am not in favor of the motion, if it would defer it to that extent. We might take up all day to-morrow in the third reading of the bills, and before I take my seat, I wish to say one word in reply to my esteemed friend upon my right; he said that somebody was in a hole, intimating that it was those who favored suffrage.

Mr. ROBERTS. Mr. President, I wish to reply to the gentleman's question, because he certainly misunderstood me.

Mr. THURMAN. Very well.

Mr. ROBERTS. My remark on that was simply this: are gentlemen afraid that during the time intervening between now and 10 o'clock, that we would by some skill or other remove the ground from under their feet, and they would find themselves in a hole?

Mr. THURMAN. The gentleman said did we fear we were in a hole or would get in a hole. Now, as far as I am concerned, Mr. President, I have no fears of my getting in a hole on this question, but I have some esteemed friends here, who promised by their acceptance of the platform upon which they were elected, whether they were democrats or republicans, that they would come here and favor equal suffrage without regard to sex, so that only those who oppose the platform on which they are elected will find themselves in a hole. [Laughter].

Mr. McFARLAND. I wish to say a few words on this subject, as I am in the minority. It has been stated on the floor of this house, time and time again, that we have had ample time to prepare a minority report; that we have had the time from the day this article passed in the committee. I deny

it. The first few days the committee met I was absent. I knew nothing of the article as it passed the majority, until it came here before the ladies that waited upon us one morning. It was then told them that the article would pass, that their waiting and lobbying around the hall of this Convention was no use at all, that the thing had been passed before it was asked for, and in Nebuchadnezzar's language, "I built this Babylon," they said, "I gave you this suffrage." Now the bill was pigeon-holed that morning until it came up before the committee of the whole. We protested against it going into the house at that time, we asked them for time that we might consider it and probably go with the majority if they would give us time. We were accused of duplicity, falsity, trickery, and all such things, and now, gentlemen, if you do not come now, this thing is going to be reported to the house immediately. We asked them to delay it a day that we might have a chance to bring in this minority report. The same answer was given unto us, "No, you cannot have five minutes, this thing is going to be reported at once to this house, and if you want to bring in a minority report, you can do so, but we are not going to delay it one moment." Now, the fact of the matter is this: Mr. Kiesel has been away since that time; we have only had the opportunity at the present time to bring in a report and why should this be stated before the house continually that something is wrong, that we want to take some advantage? If it is so fortified in and of itself, why should the scare be raised of some advantage going to be taken? There is no need of it, there is no need of it. There is only one thing that has put the question of woman suffrage in the shape that it is to-day, and that is the anxiety of some of the committee to rush it through without proper discussion and without due consideration. It is the worst thing that ever happened the

section of the article, that it should be placed in such a position before the house, to be rushed through without any consideration. And, gentlemen, this being the fact of the case, we simply ask now that our minority report may come up in its proper order with the majority report, and be reported together.

Mr. MURDOCK (Beaver). Why this dissension? Men rise upon this floor and tell us that they have not made their report. For what reason? Because they were not here. I think the government pays the men to be here present, to attend to their duties, and shall this whole body be detained because there are a few men that want to go and attend to other parts of the country where they have got business? I say it is not competent for a detention of that kind. We might offer it as competent, and it is proper that whenever a majority report is brought in that accompanying that is the minority report. And for that reason I am opposed to dilly-dallying along with this matter. And the question may arise here, why we want to hurry this along? I do not think there has been any hurry, I do not think there is any hurry now. There is plenty of equality and fairness about me, gentlemen. It is liberality, I believe strictly in liberality. I do not hesitate because there is fifteen or twenty hours asked of a detention. I am not afraid of the position I take, I am going to make my record here, and you and every one of you will make your record. and it will go to the public, and I am not afraid of the stand I am going to take. I am in for suffrage I think it is taking its course, and if men dilly-dally along, and go to attend to their private business, I do not think it is competent for them to come up here and make such an excuse.

Mr. THORESON. I think we have wasted enough time talking about these difficulties between the minority and the majority of this committee. We

were sent here and elected as has been stated, on platforms to put certain things into the Constitution of this State, among other things, equal suffrage for male and female, and I, for one, move the previous question.

The previous question was ordered.

The CHAIRMAN. The question before the house is the motion of Mr. Chidester to suspend the rules in order that we might fix this question for consideration to-morrow directly after the close of the regular order. It is amended by Mr. Ivins, who moved that we go into committee of the whole for the consideration of those propositions.

The question being taken on the amendment offered by Mr. Ivins, the Convention divided and the amendment was rejected by a vote of 44 ayes and 52 noes.

The question recurring upon the motion of Mr. Chidester the ayes and noes were called for and the vote was as follows:

AYES—87.

Adams	Lewis
Allen	Low, William
Barnes	Low, Peter
Boyer	Low, Cache
Brandley	Lund
Button	Maeser
Call	Mackintosh
Cannon	Maloney
Chidester	Maughan
Christianson	McFarland
Clark	Miller
Coray	Morris
Corfman	Murdock, Beaver
Crane	Murdock, Summit
Creer	Nebeker
Cunningham	Page
Cushing	Peters
Driver	Peterson, Grand
Eldredge	Peterson, Sanpete
Emery	Raleigh
Engberg	Richards
Farr	Ricks
Francis	Roberts
Gibbs	Robertson
Goodwin	Robinson, Kane

Hammond	Robison, Wayne	and the following members were found	
Hart	Ryan	in attendance:	
Halliday	Shurtliff	Adams	Larson, L.
Hill	Snow	Allen	Lemmon
Howard	Spencer	Anderson	Lewis
Hughes	Squires	Barnes	Lowe, William
Hyde	Stover	Bowdle	Low, Peter
James	Strevell	Boyer	Low, Cache
Johnson	Symons	Brandley	Lund
Jolley	Thompson	Button	Maeser
Kiesel	Thoreson	Buys	Mackintosh
Keith	Thorne	Call	Maloney
Kearns	Thurman	Cannon	Maughan
Kerr	Van Horne	Chidester	Miller
Kimball, Salt Lake	Warrum	Christianson	Morris
Kimball, Weber	Wells	Clark	Moritz
Lambert	Whitney	Coray	Murdock, Beaver
Larsen, L.	Williams.	Corfman	Murdock, Wasatch
Lemmon		Crane	Murdock, Summit

NOES—12.

Anderson	Haynes
Bowdle	Heybourne
Buys	Ivins
Evans, Weber	Murdock, Wasatch
Evans, Utah	Partridge
Green	Preston.

ABSENT—7.

Eichnor	Sharp
Larsen, C. P.	Thatcher
Moritz	Varian.
Pierce	

The PRESIDENT. The motion is carried and the time fixed for the consideration of this question is to-morrow directly after we get through the regular order.

Mr. NEBEKER. I understand that this gives this proposition the right of way over everything.

The PRESIDENT. Yes, after the regular order.

The Convention then, at 3:24 o'clock p. m., adjourned.

TWENTY-FIFTH DAY.

THURSDAY, March 28, 1895.

The Convention was called to order by the President at 10 o'clock a. m.

The roll was called by the secretary

Adams	Larson, L.
Allen	Lemmon
Anderson	Lewis
Barnes	Lowe, William
Bowdle	Low, Peter
Boyer	Low, Cache
Brandley	Lund
Button	Maeser
Buys	Mackintosh
Call	Maloney
Cannon	Maughan
Chidester	Miller
Christianson	Morris
Clark	Moritz
Coray	Murdock, Beaver
Corfman	Murdock, Wasatch
Crane	Murdock, Summit
Creer	Nebeker
Cunningham	Page
Cushing	Partridge
Driver	Peters
Eichnor	Peterson, Grand
Eldredge	Peterson, Sanpete
Emery	Pierce
Engberg	Preston
Evans, Weber	Raleigh
Evans, Utah	Richards
Farr	Ricks
Francis	Roberts
Gibbs	Robertson
Goodwin	Robinson, Kane
Green	Robison, Wayne
Hammond	Ryan
Hart	Sharp
Haynes	Shurtliff
Halliday	Snow
Heybourne	Spencer
Hill	Squires
Howard	Stover
Hughes	Strevell
Hyde	Symons
Ivins	Thompson
James	Thoreson
Johnson	Thorne
Jolley	Thurman
Kiesel	Van Horne
Keith	Varian
Kearns	Warrum
Kerr	Wells

Kimball, Salt Lake Whitney

Kimball, Weber Williams

Lambert Mr. President.

Prayer was offered by Rev. Stanley M. Hunter, of the Unitarian Society.

The journal of the twenty-fourth day's session was read and approved.

Petitions and memorials.

Mr. Creer presented a petition signed by John H. Hayes and fifty other citizens of Spanish Fork, praying for the submission to the voters of an article on prohibition.

Referred to the committee on manufacture and commerce.

Reports of standing committees.

The committee on rules reported as follows:

The committee on rules, to which was referred resolutions 61 C and 69 A, relative to amending standing rule 20, herewith report the same with recommendation that standing rule 20 be amended so as to read as follows:

RULE XX. The same rules shall be observed in committee of the whole as in the Convention, so far as the same are applicable. Motions to lie on the table or for the previous question are not applicable, and the ayes and noes shall not be taken. No member shall speak more than twice on the same question, nor more than five minutes at one time; but any member may yield his time or any part thereof to another. A motion to arise and report shall be in order at any stage, and shall be decided without any debate.

Resolution number 40 C, relative to announcements of committee meetings, is herewith returned with the recommendation that it be indefinitely postponed.

VARIAN,

Acting Chairman.

Mr. RICHARDS. Mr. President, I see no reason why this amendment should be acted upon to-day or this report. Under the rule, as I understand it, it will come up properly for consideration to-morrow. What haste is there in this matter? Why should we suspend the rules and make this amendment to-day? I am in favor of suspension of the rules when there is necessity for it, but I see no necessity for this. I think we ought to allow this report to take

its proper place and proceed with the rules as they are.

Mr. EVANS (Weber). Mr. President, I am in favor of the motion to suspend the rules. I do not see any reason why we should not do it now. We will save considerable time. If any gentleman desires to speak more than five minutes, he can secure the time of some fellow-member and give him an opportunity to speak longer. I am in favor of it going into immediate effect.

The question being taken, the Convention divided and, by a vote of 76 ayes to 26 noes, the motion was agreed to.

The committee on public lands reported as follows:

Your committee on public lands, to whom was referred:

File number 58, introduced by Mr. Warrum, of Cache.

File number 80, introduced by Mr. Francis, of Morgan County.

File number 113, introduced by Mr. Creer, of Utah County.

Respectfully report that it has had said files and the propositions in them contained under consideration, and herewith report the said files back with the accompanying proposition as a substitute for said files, which proposition your committee recommend for insertion in the Constitution.

Respectfully submitted,

L. B. ADAMS,

Chairman.

The PRESIDENT. Under the rule this goes to the printing committee and committee of the whole.

Mr. THURMAN. Mr. President, I move we resolve ourselves into committee of the whole, for the consideration of the article on elections and right of suffrage.

The motion was agreed to.

The Convention then resolved itself into committee of the whole, with Mr. Hart in the chair.

COMMITTEE OF THE WHOLE.

The CHAIRMAN. The first order of business for the consideration of the committee is the article on elections and rights of suffrage.

Section 1 was read by the secretary as follows:

Section 1. The rights of citizens of the State of Utah to vote and hold office shall not be denied or abridged on account of sex. Both male and female citizens of this State shall equally enjoy all civil, political, and religious rights and privileges.

Mr. Lambert offered the following as a substitute for sections 1 and 2:

Every citizen of the United States not laboring under the disabilities named in this Constitution, of the age of twenty-one years and over, who shall have resided in the State one year, and in the county six months, and in the voting precinct ninety days, next preceding any election, shall be entitled to vote for all officers that now are or hereafter may be elected by the people, and upon all questions submitted to the electors at such election as herein otherwise provided.

There being no second, the proposed substitute was not considered.

Mr. Kiesel offered the following as a substitute for section 1:

All elections by the people shall be by ballot.

Every male person of the age of twenty-one years or over, possessing the following qualifications, shall be entitled to vote at all general elections, and for all officers that now are or hereafter may be elected by the people, and upon all questions which may be submitted to the vote of the people:

First—He shall be a citizen of the United States.

Second—He shall have resided in this State one year immediately preceding the election at which he offers to vote, and in the town, county, or precinct, such time as may be prescribed by law; provided, first, that no person convicted of felony shall have the right to vote, unless he has been pardoned; provided, second, that nothing herein contained shall be construed to deprive any person of the right to vote who has such right at the adoption of this Constitution.

Mr. MACKINTOSH. I second that.

The CHAIRMAN. The question is on the adoption of the substitute offered by the gentleman from Weber for section 1.

Mr. ROBERTS. Mr. Chairman—

The CHAIRMAN. Mr. Roberts.

Mr. ROBERTS. I wish to make a few remarks—

Mr. IVINS. Mr. Chairman, I wish to ask unanimous consent of this committee that the speaker who now has the floor be permitted to exceed the limit of time specified in the rules, if he so desires.

Mr. VARIAN. I submit, Mr. Chairman, a point of order on that. We cannot be put in the position of having five minutes before adopted a rule in the Convention, and then overturning that rule in the committee of the whole. We have no power to suspend the rules here. I suggest that the gentlemen who are willing to do so designate their time that they are willing to give to Mr. Roberts.

The CHAIRMAN. The point is well taken.

Mr. VARIAN. I will say here, I will yield my time.

Mr. RICHARDS. Mr. Chairman, I submit that anything may be done in committee of the whole by unanimous consent.

Mr. EVANS (Weber). Mr. Varian is objecting to it.

Mr. RICHARDS. Unanimous consent suspends the rules anywhere.

Mr. VARIAN. Mr. Chairman, since it is challenged, I will make the point right now. I say that the committee of the whole cannot suspend a standing rule of this Convention. I challenge the argument upon it. This Convention five minutes before has declared a standing rule of the Convention to meet the very exigencies of this case. Now, if gentlemen desire to have any particular gentleman's time extended, as provided by the standing rule, they can yield ten minutes, each one of them, to Mr. Roberts, and I will say here, if he has not time enough, I will yield ten minutes of my time, on the opposite side.

Mr. WHITNEY. Five minutes.

Mr. VARIAN. I am entitled to speak twice under the rule, five minutes each

time. If the gentlemen on his own side do not give him time enough, I will extend now the ten minutes of my time to him.

Mr. EVANS (Weber.) Mr. Roberts does not desire to be interrupted. We will secure time for him. There are only a few on his side of the question. We do not want him interrupted in his remarks.

The CHAIRMAN. I suggest that those who wish to extend their time to Mr. Roberts shall designate now, so that he may begin with what time he may have, and that he may not be interrupted.

Mr. KEARNS. I will yield my time.

Mr. KERR. I will yield mine.

Mr. WARRUM. I will yield mine.

Mr. ROBERTS. Mr. Chairman, I have now all the time that I shall require. I will be overwhelmed with time.

Mr. WELLS. Mr. Chairman, I desire to ask how much time the gentleman has got now?

Mr. ROBERTS. All that I shall need at least.

Mr. KIESEL. Mr. Chairman, I will yield nine minutes of my time.

Mr. RYAN. Mr. Chairman, I will yield my time.

Mr. ROBERTS. Mr. Chairman, I appeal to you, sir, to protect me from this flood.

The CHAIRMAN. Mr. Roberts has the floor and all the time he wishes.

Mr. ROBERTS. Mr. Chairman, I shall not detain the committee so long, perhaps as they anticipated had not the rules been changed this morning. I shall not detain the committee so long as I expected myself, this morning, for the reason that this question now before the committee has changed phases somewhat since last evening. I am informed that the gentlemen of the majority of this Convention—I mean our Republican friends, went into caucus last evening and almost solidly concluded to support the proposition in regard to elections and suffrage, as it

has been found in the report of the majority. Friends who stood with me yesterday met me this morning and said that the fight was useless. That they did not feel to pursue it any farther. I can very well understand how these gentlemen perhaps are somewhat surprised that in the face of all the discouraging circumstances connected with this issue I should still persist in going on with a discussion. Leaving out, however, a speech to which I had devoted some time, upon the merits of woman suffrage, and contenting myself with an effort to discharge my duty, as I see it, by referring to the expediency of the movement, or the action that is now proposed to be taken on the question of woman suffrage, I waive my argument on the merits of the question, for the reason that it is useless to undertake to reason with those who have already determined to close their eyes and no matter what comes, they determine to follow a given course. I therefore, shall proceed upon that division of my speech that I had prepared on the theory that the adoption of woman suffrage is dangerous to the acquiring of statehood. Before doing so, however, it occurs to me that I have omitted something that I intended to say, perhaps in the way of self defense. That is, I was much disappointed with the report of the minority on this subject. I wish it distinctly understood that I had nothing to do with drafting that report, that I knew no word, nor line that was in it, until it was read here from the clerk's desk yesterday afternoon. Had I drawn that minority report, I should have placed it upon very different ground, or this question upon very different ground to what the gentlemen have placed it upon. The only suggestion that I did make to my friends upon that committee was ignored by them, and had it been placed in their report, it would have gone as I believe directly to the merits of this question.

I have been misunderstood on this floor, because I have resented the arrogance of gentlemen forming the majority on the committee on elections and rights of suffrage. When I contemplated what position I should take upon this subject of suffrage in this Convention, and wondered in my mind how I was to get an opportunity to place my convictions upon this subject before the Convention, not being very well informed upon parliamentary usages, in part at least I looked over all the forms that the question could assume and finally came to the conclusion that if I spoke at all upon this issue, I would have to take advantage of that parliamentary practice which announces a gentleman's determination to make an amendment and then speak upon the amendment that he proposes to offer later, lest I should be found in the unfortunate position of not getting a second to my motion, and therefore, bar the discussion of it. So unanimous the gentlemen appeared upon this question you certainly understand with what satisfaction I learned that there was even to be a minority report upon this subject, and that I was anxious that the report be made, that the issue might be squarely joined on the question. And when gentlemen forming the majority of that committee were unwise enough, ungenerous enough, to undertake to prohibit that minority from filing its report with the majority report, that they might come side by side, it was hardly to be wondered at that I took exception to the actions of the gentlemen as I thought the circumstances warranted. I fought the issue through, until we had at last got a report, and however much I may disagree with the style of that report, I still believe that I was right in insisting that it should be heard. My action with this matter went no farther than that.

And now, sir, coming back to some of the main thoughts that I have to offer

upon this subject. I call the attention of the gentlemen in this committee to the gauntlet that the Constitution we are forming must run after we have spent our best endeavors upon it. We are placed in circumstances perhaps different to those in which any other people in any other of the numerous states that have applied for admission have ever found themselves in.

First, I call your attention to the fact that throughout our population in this Territory there is a general sentiment opposed to the material increase of the taxes of the people. I believe there is no gentleman upon the floor of this committee, but what, if he has given thought to the subject, is convinced that taxes will be more than double to the people, and this large increase in the taxation of the people in the new State will be the occasion of much opposition to the Constitution. This opposition will not come alone either from rural districts. You will find it in the centers of our population. You will find it in Salt Lake City, and you will find it in Ogden, and I suggest that they constitute a numerous class who will oppose this Constitution. Next I call your attention to the fact that there will be another class, and not an inconsiderable number either, who will oppose statehood upon the ground that they fear the adoption of prohibition and so far as I am able to test the sentiment of gentlemen upon this floor, there is a determination fixed that shall submit prohibition by a separate article to the vote of the people. Those whose interest require the opposition to this movement and who fear the adoption of prohibition, either by the Convention, or by the people, fear it as much when it is threatened to become a part of the Constitution by the action of the people as they do when it threatens to become part of the Constitution by the action of the Convention. They will exert their influence against its adoption.

Third. Those who were disgruntled over politics in this Territory—I see a smile pass over the faces of some of my republican friends, and I am admonished by that circumstance, sir, to come to the conclusion that those gentlemen entertain the same opinion that I did when this proposition was first made to me, that about the only disgruntled politicians that there were in this Territory were of necessity democrats, who were generally defeated, and when the suggestion was made to me about this matter in defence of my democratic friends, disclaiming their being disgruntled, a prominent republican, in this Territory, one whose opinion is second perhaps in his party to no member in it, informed me that there were factions and divisions, that there were quarrels and heartburnings, over the spoils, within his own party, and that they were as much more or more disgruntled than democrats were.

Fourth. There are those who will oppose statehood because of the woman suffrage in it. I know how heroic gentlemen feel upon this subject. The conduct of the men of Wyoming has more than once been quoted to me upon this subject, and I am almost persuaded at this point to divert a little in order to speak of Wyoming; because Wyoming in the estimation of gentlemen who are supporting the doctrine in the face of everything to support woman suffrage, hold up constantly before us the image of Wyoming, and if there is any reflection upon the subject, then we have cited to us Colorado, and last of course, but not least, Kansas. I might ask gentlemen when they are setting before us a model after which to pattern, what is the matter with old Virginia? What is the matter with New York? What is the matter with Ohio, or Indiana? What is the matter with these states, whose institutions have stood the wear and tear of time for a hundred years? And though they have no woman suffrage, and though some

of them have rejected it with scorn, still there are no clanking manacles there, no gyves upon the wrists of woman, nor are women oppressed or tyrannized over by the men of those states. We are told that Wyoming has had woman suffrage for twenty-five years, and it has worked admirably. Of course, when you take into account that influence which woman's power is to exercise over the political natures of men, or the political actions of men, you can certainly concede that after twenty-five years its civilizing influences would be felt. But I have an indistinct recollection, sufficient, however, to remember clearly the circumstances to which I refer, that upon this model state there is a dark blot of shame—the evidence of the savagery of the men who inhabit that state, and that the influence of woman was not able to restrain, and that is the wholesale murder of helpless and defenceless foreigners within her borders. But as a matter of fact, the experiment of woman suffrage in the state of Wyoming has not really been tried for twenty-five years. Oh, I grant you, it was given in 1870, but Wyoming, like ourselves, was in a territorial condition for twenty years of the time, and during that time, I suppose they elected justices of the peace, a delegate to Congress, and a local legislature, just as we used to do. There was no politics under those circumstances, they were a partially settled community.

There were none of the strict party strifes with its attendant heartburnings, as we find in sovereign states where men struggle for place and seek to gratify their ambition. Woman suffrage in Wyoming for these twenty years was very much like woman suffrage in Utah, previous to the time that Congress withdrew the privilege from the women of our Territory. And that is, it was very much like going to a relief society meeting, to going to the polls. And to return to the point that

I had under discussion, the class of men who will oppose this Constitution because of woman suffrage in it, and while the overwhelming majority in favor of this measure upon this floor would perhaps give reason to believe that there is an overwhelming majority in favor of it in the Territory, it must not be lost sight of that gentlemen upon this floor are in peculiar circumstances, and under conditions that the people outside don't feel. And while I concede you that a majority of the people of this Territory are in favor of woman suffrage, there is nevertheless a large number who are not in favor of it, and are bitterly opposed to it, and will vote against this Constitution if it contains a provision granting it, and you may set it down and mark it, because it is true. Then, again, fifth, those who will oppose the adoption of the Constitution for fear that old conditions will be revived. Indeed they believe that they are scarcely slumbering, and the number of that class, already large, will be materially increased if we shall adopt this measure. The report of that minority laid upon the table of the Convention yesterday and read for the first time to the Convention provoked adverse criticism. Gentlemen for whom I have the highest respect told me in moving language how it made their blood boil when it was read, because of the imputation upon the people of Utah that they were not honest in the action that they had taken. I share with them to some extent the feeling against such imputation; I, too, think it is rather hard, after giving so many evidences of loyalty and consistency to the people of this Territory and to this nation of our sincerity now to have a doubt cast upon it. But our indignation, whether the blood boils or only simmers, does not change a fact. It is very discouraging when you cannot convince people that you are honest and that you are sincere and your motives good, and yet I have learned by a

rather trying experience that you cannot do it. Why, the house had an exhibition of it here yesterday, and a few days ago. I tried to convince the majority of this committee on elections and suffrage that those of us who did not see eye to eye with them, were acting in good faith, but we failed absolutely to convince them of that, and while it is trying to one's patience, the fact still remains, and so it is in this Territory. There is a large class of people—and you, gentlemen, may as well look that fact squarely in the face—who do not believe the sincerity of this movement, and while I regret with you, my regrets do not remove that fact. The class is there and we will have to take that into account when we are computing the chances of our Constitution passing. Perhaps their faith is not so much lacking in the people as it is that they fear the dominant church organization in this Territory. I grant you they have no grounds for fearing it; I tried to persuade them so. In public and in private I have told them again and again that they found the Mormon people when they were opposed to them steady and consistent opponents, and now that they stand by their side, as allies, they will find them equally consistent and firm, but, nevertheless, the explanation and the argument, they still refuse to be comforted, and hence I set these numbers down as among those who will be arrayed against statehood for Utah, and when you combine them all I confess that in my mind the array is formidable. But the end is not yet even. If your Constitution shall be fortunate enough to be ratified by a good round majority of the citizens of Utah, it still has to go to Washington. We are confronted to begin with in that source with the fact of irregularity in the organization of this Convention, and for my own part I believe it will be questioned, and I believe that there is ground for questioning, not only the regularity of our conduct in the organ-

ization of this Convention in its early days, but the very gentleman who has the high honor of presiding over it, may some day be called upon for his credentials.

Again, there is another proposition that is whispered within the circles of the Convention and that finds advocates, and I doubt not from the doctrine of carrying things without consideration that has been manifested upon this floor, that it will prevail—and that is to so construct the ordinance that shall provide for the ratification of this Constitution and for the election of State officers, for which it shall provide, to permit the women of this Territory at that election to cast their votes on this issue. If it is done, I believe it will be done in defiance of all precedent upon this subject. I shall be instructed if gentlemen will point where in the history of England or in the history of the United States, in event of extending the franchise to any given class, this class are permitted to vote upon whether the extension shall be given or no. With some attention I have gone over that ground, and from the days when the barons met King John in the pleasant meadows of England and demanded enfranchisement, until now, the custom is that those already enfranchised shall say whether or no the franchise shall be extended. Now, sir, if there is any nook or corner of history upon this subject that has escaped my attention, I shall be glad as before remarked to see it. There is another factor to be considered, when our Constitution goes to Washington and that is, sir, that already the east is afraid of the silver question. It matters, not, I presume which political party in this Territory shall triumph, it is a foregone conclusion that we are so united upon the proposition that they will be in favor of free silver at a ratio of sixteen to one—no nonsense about it, and no waiting for the consent of England or

any other foreign power. This is a question in which not only the executive will be interested, but it is also a question that the whole east will oppose.

Again, while our friends here, referring to the non-Mormon inhabitants of this Territory, know the people of the Territory, know the struggles of the past and the bitterness of its contentions, I believe that our local friends on that side of the house are prepared to deal more justly by the people of Utah than the same class of people abroad. It is not yet accepted abroad that the people of Utah are acting in good faith in this movement, and it will not be difficult to arouse a sentiment that shall demand the postponement of statehood for Utah. I ask you, gentlemen, to put aside your prejudices and look straight into the face of these propositions, for they are ominous of disaster to your work. And it will be easy under all the circumstances for the executive to find justification that will satisfy him and the country in refusing to issue his proclamation that shall grant to us our highest aspirations. I admire the heroic conduct, I rather like the doctrine that right is right despite the consequences. A proposition of that kind is very apt to appeal to a man of my temperament, and I think, without boasting, I may say that it has been the star that I have followed so far in my career. When I contemplate the work of this Convention, I look back over the past, call to mind the many efforts that have been made by the people of this Territory for the attainment of the object for which we are now working. They have struggled time and time for to get it, and for the first time in the history of our Territory a Constitutional Convention has assembled under the authority of an enactment of Congress. This, in my mind, is the golden opportunity for the Territory of Utah. If this good time shall pass, if our efforts shall now be

defeated, God knows only when the opportunity will come again.

Here, I shall digress far enough to address myself to the womanhood of this State or proposed State. I know my voice cannot reach all the women of this Territory, but they have at least representatives upon this floor in attendance upon this committee, and I shall take the liberty of saying that there is a supreme opportunity before them. I invite their attention to this array of difficulties which confronts the attainment of our statehood, and if I am not altogether mistaken in my conceptions of these difficulties, if the women of this Territory can see that the enfranchisement of them now, the persistence of doing it, will endanger the attainment of our hopes, it will be a movement worthy of the women of this State, if they were willing to petition this honorable body of men not to attempt the enfranchisement of women, if in their judgment it would endanger statehood itself. It is a sacrifice that I believe the women of this Territory are capable of making. Of course, I shall not urge it. I would not so much as ask it. It would be vain to do so. But, nevertheless, I believe it would be wise and patriotic to do it. Gentlemen are determined to run all the risks, however, of obtaining statehood for the reason that they consider themselves under pledges to grant it, and if I were to judge of the opinions of gentlemen by what they have said concerning this subject and the earnestness with which they have said it, I should be forced to the conclusion that the one virtue—the sum of all excellence, was the keeping of party pledges. I admire gentlemen who regard themselves bound by their pledges. It is an admirable trait of character worthy of emulation and of praise. But I wish to call the attention of gentlemen to the circumstances under which those pledges were made. Are you aware that woman's suffrage has never been discussed in this Territory

upon its merits? Away back in the old days when woman's suffrage was first given to the women of this Territory, do you know how it came about? Why, gentlemen, it was granted in the main in answer to a challenge or banter that was thrown down, in regard to it. It was said by a portion of our citizens who were opposed to existing institutions in this Territory that if the franchise was only bestowed upon woman she would vote to destroy those institutions. In that spirit it was accepted by the dominant party in this Territory and woman was enfranchised. It did not turn out, however, in its results as was predicted by those who made the challenge, and instead of weakening the dominant party the discovery was made that its strength was just doubled or more than doubled.

Agitations were set on foot which resulted ultimately in the withdrawal of the privilege from the women by act of Congress. The matter laid in abeyance until a republican convention met under the new circumstances in which we have been placed. I refer to those changed conditions brought about by division on party lines, and each party became a rival for the favor of the people. Our republican friends, true to their interests, concluded to make an appeal to the people, and seek to win their favor by favoring this proposition, but also following, not designedly, but acting as I believe purely from instinct, which comes from imbibing their doctrines, they managed to adopt a platform that could mean something or nothing according as their convenience or their interest might seem to dictate. Shortly after the action of that convention, a democratic convention assembled and they acted no better than the republicans did, for the reason, notwithstanding there had been no anterior discussion or agitation of the question, but believing that they could take the ground from under the feet of their political opponents, they go to work

and make an emphatic declaration binding the democratic party to sustain that doctrine; notwithstanding the fact that if there is an anti-suffrage party in the United States, it is the democratic party. This is what they gave them. And now they come into this Constitutional Convention, where men ought to raise mountain high above party politics, and above party expediency, and take into consideration the good of the entire people of our Territory. They undertake to say that those ill-considered party planks of platforms so binds them down to follow a course which puts in danger statehood itself. The cry is, "Be true to your party, be true to your party pledges." And men are acting upon this floor against their conscience, as to the merits of woman suffrage, in order to uphold party consistency, and shrinking like cowards from the responsibility of raising above party consideration and doing an act that shall insure the safety of the scheme of statehood. For one, I proclaim it to you that I read my duty as being something higher than persevering in the support of ill considered action for political effect. And as stated in a paper handed me just as I rose to my feet, party platforms, gentlemen, are like the shifting clouds of the summer day, and may be wafted where they may—shifting constantly, but your Constitution is more in the nature of everlasting hills; and while it is true, sir, that in the light of eternity even the mountains are but shifting clouds, it nevertheless remains true that they are more staple than are the clouds of a summer day.

Gentlemen, I appeal to you to stand by your party pledges. My appeal to you is to do your duty in first securing statehood for the people of Utah, and then let these questions take what course they may, after that. Vote woman's suffrage up or down afterwards, I care not, although I have no sympathy with the arguments by which that doctrine is supported. Do

not misunderstand me. I shall vote and work for the Constitution that this Convention shall frame. Even though it shall contain an article granting woman's suffrage, it will make no difference with my zeal, but if there is anybody that will listen to me after I get through this harangue, and with this Convention—if there is any party that will permit me to speak from its platform, you will find me speaking in favor of statehood for Utah, though it should include both woman's suffrage and prohibition. In fact, you can put almost anything in it that you please, but I shall advocate statehood for the people of this Territory, who are worthy of it and who are deserving.

I presume that my party friends especially will come to the conclusion that I have made a mess of it. I have certainly succeeded, I warrant it, in displeasing them, and I am equally conscious of the fact that I have not pleased the republicans. And perhaps, what is more serious, I have offended my constituency, for both by admonition and by letter, have they undertaken to change me on this issue. I shall not, however, fear to oppose my constituency. They are preparing to resolute against my conduct, but after the first flush of displeasure shall have passed away, the people among whom my boyhood and manhood were spent will not impute to me improper motives. They will know, if nobody else knows, that however faulty in my judgment I may be, there is a deep conviction in my heart that the line of duty demanded that I should take this ground, that that is my duty as I conceived it. Perhaps there is another thing that is distressing and that is, for a number of years I have been under the displeasure of many of our prominent ladies. This does not end it, and that is a circumstance not to be thought lightly of, although gentlemen smile. By the way, a few days ago, you remember the invasion we had in the hall on the part of the good

ladies interested in this question. One of them, divining that in all probability I would take a stand against their interest, said she did not think they had any occasion to fear me. I conceded it. I hope they never will have occasion to fear me. I should regret it if they did. Then, again, she went on to tell me that even if in this Convention suffrage should be defeated, it would come sometime, and they were telling gentlemen who were lending their influence to the cause, that they sometime would be able to reward them. [Laughter.]

Well, I did not have to read between the lines to catch the full meaning of that, because if they could reward their friends, they could equally punish their enemies. The remark had but little effect upon me. I have no political aspirations. I am a candidate for no party favor. In my little political sky there are no stars that can be blotted out. I am equally removed, therefore, from the hope and fear, and I am prepared to take and stand upon this question as I think I see it affects the interests of the people of this Territory.

And then again, the press admonishes me that if I make this speech, the effort of my life would also be the effort of my death. [Laughter.]

And even my kind party friends, gentlemen, for whom I entertain the very highest regard, were kind enough to intimate that they would like to save me from going into a hole. They are of the opinion that I should dig deep my political grave, and I presume that I have dug it deep enough to gratify even them. So you will observe that I stand in the midst of all this ruin single handed and alone. Alone I may be, but I would not exchange my free thought for a throne. [Applause.] And as for my grave, the grave has no terrors when the fear of death is gone. So that I am in the position of saying, "Oh, grave where is thy victory, oh, death where is thy sting?" But, now, gentlemen, in conclusion, let me say, speak-

ing from the midst of all this debris, to which I have called your attention, there is one thing that you cannot do—that the good women of this Territory cannot do, that my offended constituents cannot do. They cannot say that I played the part of a demagogue or that, like a scurvy politician, I pretended that which I could not see. All considerations of interest drew me in the opposite direction to the course I have traveled. By even confessing conversions to the arguments and to the judgments of my fellow democrats, I could have avoided the friction between them and myself. I love the approbation of my friends. I shrink from conflicts only where I think duty calls me to meet them. If I had my political aspirations, every consideration of interest would have required me to accept and adopt this idea of suffrage. I could have escaped, by taking the opposite course, the offense of my constituents, and my past, like yours, would have laid in pleasant places. I observe some of the memorials offered here by the good ladies who would now aid in obtaining this privilege for them. So that I could have become a candidate for immortality and perhaps the laurel leaves would have encircled my immortal brow as they will yours, but my sense of duty, as I see it, called upon me to take an opposite course, and I have taken it and am prepared to meet all the consequences attendant thereupon. One word of caution to gentlemen of this Convention. While you are stretching out your hands for the emblem of immortality offered you, while you are seeking to build monuments for this Convention by taking this question up and acting favorably upon it, let me admonish you that you do not mistake your occupation and dig a grave for statehood instead of attaining the things you desire.

Mr. Chairman, I certainly am moved with a sense of gratitude to this Con-

vention and to the gentlemen who have kindly extended to me their time, and I also thank you with all my heart for the patience with which you have listened to me. [Applause.]

Mr. RICKS. Mr. Chairman, I move that the committee now arise and report progress.

The motion was agreed to.

The committee then rose and reported as follows:

Your committee of the whole, having had under consideration the article on elections and rights of suffrage, beg leave to report progress, and ask leave to sit again.

The report was adopted.

The Convention then took a recess until 2 o'clock p. m.

After recess.

Mr. SQUIRES. Mr. President, I move that we now resolve ourselves into committee of the whole to consider the article on elections and rights of suffrage.

The motion was agreed to and the Convention resolved itself into committee of the whole, with Mr. Hart in the chair.

COMMITTEE OF THE WHOLE.

Mr. CHIDESTER. Mr. Chairman and gentlemen of the committee, I do not deem it necessary to enter into a full discussion of this question now, for the reason that I believe that the question has been fully settled in the hearts and minds of the people. Notwithstanding the statements that have been made this morning, I believe that the question has been thoroughly ventilated, and that the people have virtually passed upon it. I believe when the platforms were adopted by the two political parties that the people knew upon what platform their candidates stood. I believe that they are an intelligent people, and as a matter of course, canvassed thoroughly the ground over which they were traveling. And there is this to consider, that since this Convention has been convened here, numerous memor-

ials and petitions have been sent here by ladies from all over the country, asking this body to incorporate in the Constitution this article that would give them equal rights with men, not only to vote, but to hold office and enjoy all the rights that men enjoy. What has been the result? There has been no remonstrance sent in here from any source. I say no, that nothing has been done in the way of remonstrance, except the report of the minority of the committee on elections and rights of suffrage. That is the only thing that has come before this Convention in the way of a remonstrance, in the way of placing that in the Constitution. It has been stated here this morning that the committee who had that matter in charge had dealt unfairly with the minority of that committee. I wish, Mr. Chairman, to correct it, and I wish to say that it is absolutely untrue; that never was a minority in any committee more fairly dealt with than the minority of that committee, and I say it for this reason, that it was understood from the beginning that there would be some opponents to this measure, and for that reason we agreed to take up that subject on the second day that we met. According to this agreement on the second day that we met, this article was taken up. It was read over, it was talked about, and every member of that committee had perfect freedom to discuss it from that time until we made our report, and the minority determined in the beginning of our sitting that they would make a minority report. The matter, however, was left open for discussion, that the minority might have a chance to discuss it whenever they pleased and to bring out any new points that they might run across. The matter was talked about considerably during our session and the vote remained the same, and towards the last it began to appear to the majority of the committee that it was time that final action should be made upon that,

so far as the committee was concerned. The minority had due notice of this, and upon Thursday, I think it was, prior to the handing in of this report, the committee instructed its chairman that he should prepare a report. It was understood that that report should be immediately filed for action by this Convention or the committee of the whole. In accordance with that, the chairman prepared the report and presented it to the committee for its actions. A majority of that committee approved that. The minority had given their views upon it and they asked for time. We wished to file that on Saturday. They asked for time until Monday that they might prepare a minority report, but the majority of the committee said by a vote that we should present that on Saturday at 2 o'clock, and that we would not urge any action on it until Monday or Tuesday, in order that they might have time to prepare their minority report. When that report was signed by the majority, the question was asked if any unfairness had been shown and the minority expressed themselves as being perfectly satisfied with the action of the majority and said that they had been well treated and had good feelings in regard to it.

Now, then, from that time to this it has been charged, and especially this unfairness, that the majority had acted very arrogantly and had not shown the minority the proper respect that they should. It is this that I wish to refute. I wish to say also, that I differ with the gentleman who so ably defended his cause here this morning. The best of men differ in opinions and I am willing to concede that he is as honest in his convictions as I am in mine, but I have this to say that when the charges are made, as made in that minority report, that the people are not sincere in what they are doing, I say that it is unfair, and I say that it is not true. The history of the people of Utah does not bear that out. And it is said that

if we adopt this measure in this Constitution it will take from us many thousand votes. I say, gentlemen, that in my opinion it will not take one vote away from that Constitution that would not be taken if it was submitted as a separate article. And I have more to say in regard to that, and it is this: That that matter seemed to have been thoroughly canvassed before it was adopted in the platforms of these two parties, and then was the time for that able speech that was made here this morning. But I say that to bring it in now is entirely too late. Every man that was elected here, comes in here pledged, and I care not who says to the contrary. That platform was handed to me and upon that platform I stood. Upon that platform I went to the people. I went to them honestly with it. I had no voice in that Convention, but I said to the chairman that although our county would not be represented, as I was authorized to speak for them, that we would adopt the platform that they adopted and we would endeavor to stand by it. I considered it my duty and it was my duty to appear in that convention and make my fight there. There was the place for me to fight. There was the place for me to oppose this measure; not after I had accepted the nomination on this platform and went to the people and said to them that I had accepted this and if they would elect me that I would labor for those rights and then come here and oppose it. That is not as I understand the matter. I have no right to do it, and I contend that no other man has any right to do it. My friends could do it if they liked, but speaking from a reasonable standpoint, I say they have no right to do it. The reason we will not lose any votes is this, because it is a moral certainty that if this is submitted as a separate proposition, it will become a part of the Constitution. It is a certainty, and I do not believe that there is any man in this Convention

who will doubt it; then, where is the man that would vote for the Constitution if this was submitted in a separate article that would vote against it in the article itself? It seems unreasonable to me, because if they know that this is going to become a part of the Constitution, whether it is submitted separately or whether it is engrafted in, makes no difference. It is an assured fact that it will be a part of the Constitution, and if they will vote against it at one time, they will vote against it at another.

And it seems to me that in the position that we stand, we have only one duty to perform. If there is any mistake made, it is not made now by doing that which we have pledged ourselves to do. It is not by doing what the party expects us to do, but if there has been any mistake made, it was made at the time that these platforms were adopted. And who is to blame? Who made the platforms? There are gentlemen in this house who assisted in making these platforms. I did not help to do it. If I had been there, I might have acted the same as the rest. I am not here to discuss that proposition; I am here to defend the action of the committee over which I had the honor to preside. When we went into that committee room as a committee, what was expected of us? Being elected as we were upon the platform given us, we were expected to report a bill in conformity with those platforms. That was what was expected, and should we have failed to do it, indeed the people would have cried out against us. We would have been called traitors, as well we might have been.

Now, then, Mr. Chairman, I deem it as a settled question and when I arose I did not expect to occupy as much time as I have done, but this is the way I look at the matter and there are no grounds for the minority to make these charges against the majority of the committee, for the reason that we en-

deavored to act in all fairness toward them, and it was so expressed by them that they had been treated fairly, and we had no idea that they entertained any different opinion until we arrived in here. It is true we insisted that this matter should not be laid aside and any other matter take precedence; that it should be protected just the same as any other bill.

Thanking you for your attention, I will give way.

Mr. ANDERSON. Mr. President, and gentlemen of the Convention, I am in favor of the proposition granting equal suffrage to women, not because I am actuated by any feeling of sentiment or gallantry toward the fair sex, but because I think the principles of justice demand it. It embraces the principles of human rights and liberties and that great fundamental principle that there shall be no taxation without representation, the violation of which was one of the chief causes of the revolutionary war. Mankind have advanced in civilization in the same ratio that women have been accorded liberty and equal rights. Who is more vitally interested in the laws of our country than a mother, and who will endeavor more than she to establish a good government, and to elect capable and worthy officers to administer the laws thereof? She is constantly working, planning and even praying for the welfare of her children and country, and should have the right of assisting to mould the policies of the government by casting her ballot as a protection to herself and children. Is not a sister or a wife as greatly interested in good government as a brother or a husband, and do they not suffer fully as much from the effects of bad laws and the acts of corrupt officials? If so, why should they not have a voice equally with the men in making the laws and electing the officials. I say, gentlemen, there can be no just reason for denying them that right or privilege. If you only con-

sider the subject, your own observation will tell you that women are freer from degrading habits and vices than men, and if you examine the statistics of crime, you will find the men greatly outnumber the women in that dark calendar, which is another proof that women are morally superior to men and should have an equal voice with them in making the laws and in electing the officers to administer the same. Some object to giving women the right of suffrage because they think it will degrade her to bring her in contact with the mire of politics, but I hold there should be no mire in politics. And if there is, by her moral superiority, she will assist in purifying and raising them out of the mire, and be the means of stimulating the men to take more interest in the purity of politics and the good order of elections; for if women attend the primaries and vote at elections, their fathers, sons, husbands, and brothers will take an active interest in seeing that the primaries and elections are held in suitable and respectable places, and that good order prevails, and would not permit any rowdyism, drunkenness, etc., which would be a further proof of the beneficial results of woman suffrage. I can remember the time when women had the right of franchise in this Territory, and elections were so conducted that women could attend them with the same degree of respect and order as if they were going to the postoffice or to church, and I also remember they voted as a rule for good government and good officers. In this age of advancement and dissemination of knowledge, women read the papers and are as well posted on current events and the needs of mankind as men. Woman should be man's co-laborer in governmental affairs as she is in the home—she is his superior in morality, his equal in mental abilities, and a competitor in the professions. If women aspire to positions they are not capable of filling

it is very unlikely they would receive the nomination or be elected to the same, as such matters would be directed by reason and consistency.

As an example of the success of woman's suffrage I refer you to the state of Wyoming, where it has been tried for the last twenty-five years and has completely vindicated the fact that it is one step higher in the advancement and progress of mankind. It has been ridiculed, misrepresented and slandered in every possible way by its enemies, but it has risen triumphant and now numbers among its supporters many of those who formerly opposed it. When the question arose of submitting the question of woman's suffrage as a separate article in the Wyoming constitution, the delegates almost as a unit protested against such injustice and paid the very highest tribute to the women of Wyoming and to their conscientious and judicious use of the ballot for the twenty years they had the privilege of using it, and to the beneficial results of equal suffrage and its elevating influence at elections; Governor Warren, of Wyoming, and Governor Humphries, of Kansas, have also borne record of the beneficial results of woman's suffrage.

A delegate of the Wyoming constitutional convention, Mr. Campbell, said that when he came to Wyoming he was very much prejudiced against woman's suffrage, on account of having heard so many villifying statements concerning the bad effects of the same, but he said he had found by experience that those statements were false, and that equal suffrage had borne good results on every hand.

If woman's suffrage has produced such good results in Wyoming, it will accomplish the same thing in Utah, and would produce even greater results in New York, and the thickly populated eastern states where it is said politics are more corrupt. For if woman were given the right to cast her ballot there would be less fraud, drunkenness and

rowdyism at elections, for the very best interests and instincts of men would be appealed to for the accomplishment of such a result. Woman's conscience is more sensitive and her morality superior to that of man. There is no crime committed but what more men are guilty than women, and even in the case of downfallen women there are many more men guilty of the same vice, and if the women had the right of ballot they would use it in such a manner as to protect their unfortunate sisters, and elevate them to a higher morality and would be the means of the people rising to a higher standard.

It is held by some that to incorporate the resolution granting suffrage to women in the Constitution would endanger its ratification, but I claim that to be a mistake. Woman's suffrage will be one of the strongest features in the Constitution because it is right and embraces those life-endearing principles of liberty and justice, and I for one would rather see the Constitution defeated than to have it accepted and deny the right of franchise to one-half the citizens of the new State. We all come here pledged to that principle, as both political parties of which we are members have resolutions in their platforms declaring unequivocally in favor of granting suffrage to women; and if we do not do so, we will prove false to the trust and confidence reposed in us by the people and traitors to the cause of liberty, and our names will go down in future history covered with perfidy and dishonor and no reasoning of our own would avert it.

I trust we will not bring dishonor upon ourselves by betraying the sacred confidence reposed in us by the people. I hold that it is the duty of every member who is opposed to woman's suffrage to resign, for he cannot consistently pursue any other honorable course, as we are all pledged to support it by our party platforms

Millions of ignorant slaves have been

admitted to the right of suffrage, and thousands of ignorant foreigners are admitted yearly, and yet why hesitate to grant our mothers, our wives and our sisters the rights of suffrage, most of whom are native born, many are property owners and well educated, and all are most vitally interested in the welfare of the government, in the principles of liberty and the perpetuation of the same.

It would be just as consistent and just as fair to submit in a separate article to the people the right to hold property and the right of suffrage for male citizens.

I am opposed to submitting woman's suffrage in a separate article to the people, because I am unwilling to give the saloon men, liquor dealers, gamblers, and bad element of society, who think that a good vote will injure them, the opportunity of defeating it by corrupt influences and the fraudulent use of money, for if such influences were used many might be induced to vote against it, who would otherwise favor it. We are charged by the gentleman from Davis of cowardice because we are standing upon our convictions and the faithful promises we have made, which I denounce as ungentlemanly.

It should need no argument to convince us of the right and justice of granting the women the right of the elective franchise or of the beneficial results that will accrue therefrom.

In conclusion I will say let us be true to ourselves, and not be so intolerant and bigoted in our opinions as to deny the rights we now possess to others equally entitled to them according to every principle of justice, and I earnestly hope that this section granting women equal suffrage with men will be adopted and incorporated in our Constitution, and that we will sustain the same by a unanimous vote and thus show to the world that Utah is in the advance march of progress and civiliza-

tion, and in those life-endearing principles of liberty and justice.

Mr. THURMAN. Mr. Chairman, were it not, sir, for the fact that I have a pride in the position that I take upon this question, I would not ask the indulgence of this committee to hear what I have to say. I believe that absolute and unconditional suffrage for woman equal with man is a foregone conclusion in this Convention, unless it may be said that oratory and eloquence must take a stronger hold upon the minds and hearts of men than cold logic and keen sense of justice and right. When it comes to oratory and eloquence, I believe that this Convention concedes that my friend of Davis is entitled to the honors. We cannot hope to meet him upon that ground, but we are here founding a state. We are laying the foundations of a temple of liberty and we are at this very hour, Mr. Chairman, discussing the question to what extent we will be found seeking to widen the circle of human liberty, and abolishing those distinctions which have no foundation, except in mere sentimental ideas of men. It is a remarkable condition that confronts us today in this Convention, when the leader, if I may choose to call him, of the opposition—when the most eloquent man in this Convention, (and I say it with deference to all my colleagues and friends on this floor,) can stand up here and say that he will not indulge in a discussion of the merits but he proposes to confine himself to the question of expediencies only. We are here to discuss the merits of this question. We are here to discuss a question of right, the question of justice, and if we can, that our side will throw expediencies to the dogs. God forbid, Mr. Chairman, that I should ever be found in a constitutional convention discussing the most important question perhaps that will come before us, and place my entire argument upon the grounds of mere expediencies only, and leave the question

of right and justice out of the discussion. [Applause.] But where are the grounds assigned as to why it is inexpedient to give women the suffrage?

I am willing to meet the question even upon the ground of expediencies. The honorable gentleman from Davis County, in the course of his remarks this morning, laid down several propositions on the question of expediency. First and possibly foremost, woman's suffrage is dangerous to statehood. There is an answer to that outside of anything that he touched upon in the discussion. When this Constitution shall have been submitted to the people next November, for their ratification or rejection, upon what grounds have we the right to believe that the people of the Territory of Utah will adopt a constitution when every man in the Convention has proved, derelict in his duty, and has treated as a thing not to be considered the very foundation upon which they were elected to the positions that they hold? The people might as well say to us next November, "We sent you to the Convention to frame a Constitution and to place in it, as a fundamental principle, that every American citizen without regard to sex should have a voice in administering the government that you are to form; you have treated with contempt—you have ignored this first fundamental request, and you have given us something else in the place of that that we asked you to give, and now you present it to us and ask us to adopt it." Do you think they would adopt it? And more than that, what sort of confidence would they have in the future in either the democratic or the republican party? Here we are trying to teach people something about politics. We are trying to cut loose from the old lines and engage upon the new and teach one another and ourselves that there is a beauty in what is called American politics. Upon this very threshold of our work, the first thing

we are found doing, is to forget the pit from whence we were dug and the stone from whence we were hewn, and send to the dogs the fundamental proposition upon which every man was elected to this Convention.

Now, Mr. Chairman, I will read the plank in the democratic platform. While I think it means the same thing as the plank in the republican platform, I read this, because it is a little more pronounced and more emphatic. I will read what the honorable gentleman from Davis County has seen fit to criticise as not having been in good faith. If I may be permitted, I will say that I take pride in the fact that this plank in the platform was drafted by myself, in the committee on resolutions, but I am entitled to no credit on that account, for every member in that committee was ready and willing and I do not know but what he had a draft in his pocket, and all the difference between them and me is that I happened to be lying in wait and I got the floor first.

(Reads:)

The Democrats of Utah are unequivocally in favor of woman's suffrage and the political rights and privileges of women equal with those of men, including eligibility to office.

Now, listen, here is where it strikes me and my mostesteemed friend from Davis County very hard:

We demand that such guarantees shall be provided in the Constitution of the State of Utah as will secure to the women of Utah these inestimable rights.

The party which put myself and the honorable gentleman forward for election or defeat, as the case may be, demanded of us that we secure those guarantees in the Constitution, and while I may not have the courage that my friend has—I know I have not the eloquence that he has—while I may not have that Spartan integrity that he has, I confess that I have not that sort

of courage to suffer myself to be elected upon a platform and deliberately in Convention come out and fight against what I was elected to do. [Applause.] That is the kind of courage, Mr. Chairman, that I do not possess, and I thank the all wise Creator, the author of my being, that I have never aspired to that sort of courage. I do not say if I were elected upon a platform that I would stand by it and fight for it under all circumstances, but I do say, if anything had occurred in the meantime to change my mind or my views upon the subject I would state frankly and openly in the face of the world that a change of heart had occurred with me and that I must now refuse to do what I had agreed to do. That would be my position. I have not the courage to take any other. But the gentleman says that he can stand alone among the ruins. You one hundred and seven sitting here are the ruins; like the Coliseum at Rome—while the Coliseum stands, Rome will stand; while the honorable gentleman from Davis County stands, opposition to woman suffrage will stand. [Laughter and applause.] And that without a discussion of the merits, that without deigning to reply to the fundamental principle that taxation without representation is unjust, and should find no place in American institutions, he does not take the trouble to answer the question as to why this distinction should be made that exists. But it is simply a question of expediency. Now, I am coming directly to the point of this question of expediency. The only matter that strikes me as one in which there should be any force if true is that the conferring of the rights of suffrage upon women will have a tendency to relegate us back to that condition from which we have come, and which none in this Convention desires shall recur again. Why will we be sent there? Why let this recur again? Because he says there is an undercurrent, there is a rumbling, there is a mutter of discon-

tent among the people of Utah and in the states east. We have not heard much rumbling in this Convention on the subject, except the rumbling that has been caused by my friend from Ogden and my friend from Salt Lake and my friend from Davis County. That is all the muttering so far. It has been open here for protest against these petitions that have been flooding this Convention from the side that we are on. The news has gone forth in the public press that the women who desire suffrage are clamoring for it at the hands of the Convention, and as suggested by the honorable chairman of the committee on elections, no voice has been heard in opposition to it except the voice of this minority, and they put it upon the grounds that it will interfere with statehood. Now, I am coming squarely to the point. It is the first time that I have had occasion for years to recur to old conditions, but I think here is the place for it. I doubt if there is any serious and considerable number of what are called anti-Mormon element in Utah who believe that there is any danger in this proposition. I want to remind them of the fact, if there be, that should the time even come that there will be any attempt on the part of anyone to recur to these conditions, you will find the men here who are fighting for equal rights and political privileges will be the men who will stand up and say, "Hands off; you are treading on holy ground." I have this confidence in the Mormon Church, that if political parties will let them alone, they will let political parties alone. [Applause.]

Now, another answer to the proposition as to whether there are a few who feel a dread as to the possibilities of recurring to old conditions, let me say this, what would those few think—how would they feel if the Mormon side of this question should commence to oppose an influx of outside population? What would they say if there was an organized effort on the part of the

church and its people to keep out a population anti-Mormon? But are they doing it? Is the church doing that, gentlemen? Let us be fair, let us be just, in our thoughts concerning conditions as they are and conditions as they have been. On the other hand, we find what is called here the Utah Company, organized for the purpose of obtaining all the capital possible, making all the developments possible, in order to introduce and bring in a population from the outside, which must of necessity be an anti-Mormon population. We find in that company, President Wilford Woodruff, and George Q. Cannon, and I do not know but Joseph F. Smith. At any rate it is a Mormon company, acting in good faith for the purpose of bringing in an anti-Mormon population. Then, I say, if there are those who believe that anything should not be done here which might possibly increase the Mormon vote, they are more intolerant than the church, for the church is thinking of nothing of that kind. So, gentlemen, I take it that there is nothing in that fear, in fact, my friend on my right here (Mr. Roberts), said this morning that the fear was utterly unfounded. What, then, must we think of a proposition like this. Here we are founding a state. Here we are determining at this very hour the question whether all the people who are American citizens and of requisite age should be entitled to participate in the affairs of government. We are determining that very question. And men stand up here and say, not because it is right, but because a few men have a groundless fear, "we are opposed to it." I say that is not a proper ground for opposing the insertion into this Constitution of the fundamental principle such as is under discussion at the present time. And when you meet the question as to whether statehood will be affected or interfered with, you have met all that there was in the argument of my friend from Davis (Mr. Roberts),

that is all. Trace it as you will from beginning to end, you will find nothing that any attempt should be made to meet on this floor, except the possibility that it might interfere with statehood, and he says there is a fear of increased taxes, and there is a fear of an article on prohibition, and there is a fear that women will have the rights of suffrage, and these are the propositions. The question of right and justice is absolutely left out from the beginning to the end, and the only purpose is to satisfy and placate a few men, who it is imagined will have fears on the subject; there is no sort of proof or demonstration that there are any such men. Why have they not come in here and made themselves heard, by petitions and remonstrance. It has been open for every citizen and every body of citizens to say all that they might have to say upon this subject.

There is just one thing in conclusion, which I wish to say, Mr. Chairman. I am in favor of woman's suffrage for the reasons assigned in the minority report against it. The only reason it assigns is that women are better than men. That is all. It says, "We do not seek to dispute in the least the argument that in all intellectual attributes and attainments, women are qualified to vote as intelligently as men, except that women are better than men." After having stated that, then the proposition to exclude the best element in the commonwealth—that which the minority says is the best, is to be excluded, because it is good. I believe they are. I believe it will increase the better vote. I will tell you why. The best vote in any commonwealth is the votes of heads of families—married men—the substantial citizens of the country—they are not a floating element, they are not a transient element; they are not the riff raff of society. They are the heads of families and understand its responsibilities, and the responsibilities of the commonwealth.

It has been said that a woman will vote as her husband does; that is one of the things that I like in the proposition. If the heads of the families constitute the best vote in the commonwealth and that vote can be doubled by giving their wives the right to vote, we are only doubling the vote of the best element in the commonwealth, and is it not more calculated to insure good government? It seems to me, Mr. Chairman, it is a plain proposition. I have already occupied more time than I intended to, and I thank the committee for its indulgence.

MR. RICHARDS. Mr. Chairman, being a firm believer in that declaration of our bill of rights which says that "frequent recurrence to fundamental principles is essential to the security of individual right and the perpetuity of free government," I desire to call the attention of the committee to some of the fundamental principles which should govern us in determining the great question of suffrage for our new State. Preliminary to the argument that I shall offer, it is important to fully appreciate the extent of our powers in relation to the question. Hence we will first consider the powers of a constitutional convention in relation to the elective franchise.

A constitutional convention, such as we are now holding, has its sphere largely determined by the overshadowing Constitution of the United States, which we have already adopted as a condition precedent to framing a Constitution for the prospective State of Utah. If we were sitting as a revolutionary convention, such as that which framed the Declaration of Independence, we should construe our powers as absolute and independent of all other sovereignties; but as a convention to form a constitution for a state, our action is conditioned by the organic law of the Federal Union. We are also controlled by such general legislation as has served to determine our territorial

boundaries and to inaugurate us into existence as an inceptive commonwealth. All such permanent features of the Organic Act, and more particularly the Enabling Act, are inviolable limitations of the powers of this Convention in the framing of measures for the guidance of the future State.

But with respect to the question of suffrage, who shall be the electors, the voters of the forthcoming State, this Convention has plenary power, and the whole subject in its entirety comes practically before us for determination. Thomas M. Cooley in his great work on Constitutional Limitations, page 752, says:

The whole subject of the regulation of elections, including the prescribing of qualifications for suffrage, is left by the national Constitution to the several states, except as it is provided by that instrument that the electors for representatives in Congress shall have the qualifications requisite for electors of the most numerous branch of the state legislature, and as the fifteenth amendment forbids denying to citizens the right to vote on account of race, color or previous condition of servitude. Participation in the elective franchise is a privilege rather than a right, and it is granted or denied on grounds of general policy, the prevailing view being that it should be as general as possible consistent with the public safety.

With this view writers on constitutional law generally agree, and it is confirmed by the trend of judicial decision. That provision of the national Constitution which requires that "The United States shall guarantee to every state a republican form of government" would apply as a preventative of too great a limitation of suffrage rather than its extension. Hence the powers of this Convention in relation to the elective franchise are practically unlimited, and there is no barrier to its enacting suffrage privileges which will be in full accord with the letter and spirit of the Declaration of Independence.

It is my purpose in this discussion to deal with the suffrage question in its broadest and most comprehensive form,

and in order to do this I shall discharge from consideration all minor and subordinate phases of the subject. The first section of the article reported by the committee on elections and suffrage is elementary and primary. It is as broad as human nature and it responds to every possible demand of men and women in the complex relations of human society. It reads as follows:

The rights of citizens of the State of Utah to vote and hold office shall not be denied or abridged on account of sex. Both male and female citizens of this State shall equally enjoy all civil, political and religious rights and privileges.

All the following sections of this article are definitive and qualitative. They relate to residence, property, and educational qualifications, registration and other minor matters governing the exercise of the franchise. They are the work of the lapidary, who cuts and polishes the precious stone in order that it may be adjusted to the social fabric as the foundation stone on which the whole shall rest. The substance of the first section is the substance of the whole article; and that is, that man, using the word in the broad sense without reference to sex, human beings as such, are, in virtue of their humanity, factors and units of society as a whole, whether civil, political or religious. It means that the true and essential condition to the exercise of civil and political privileges is human nature, human intelligence, the God-given endowment of humanity, fashioned in the image of the Divine Creator. It means that when God has created a member of the human species having the ordinary intelligence and moral rectitude that are requisite in normal human nature, the person residing in our midst and being a citizen of the United States, is entitled to all the civil and political privileges that are essential to the exercise of full citizenship, with all its rights and obligations. It means that all legal qualifications

and conditions limiting and defining civil and political rights and duties shall be subordinate to the inalienable rights which every citizen possesses in virtue of being created human. It means that the Divine image in man shall be set above the minor physical distinctions which appertain to human beings as individuals. It means that the Declaration of Independence, the magna charta of our nationality, shall have full expression and full interpretation in the organic law which we are now delegated to frame for the coming commonwealth of Utah. It means that the narrowness, the selfishness, the passion and the prejudice of the long, dark past, shall no longer dominate our civilization. It means that men and women, equally members of society, equally answerable to law, equally responsible in taxes for the support of the State, equally creators and consumers of wealth, shall no longer find themselves subjected to discriminating legislation degrading to one-half the population and dishonoring to the other half, while the foundation of all legislation, the source and ground of all obligation and all right, is the same in both classes, all being created equal, all being endowed with the same inalienable rights of life, liberty and the pursuit of happiness. With this statement of the question I shall endeavor to present for your consideration a number of affirmative reasons why equal suffrage for men and women should be provided in the Constitution.

Principles come before precedents, although it is by means of precedents that we sift our principles. To act from principles is to make truth incarnate, to give it body and form in the world of fact and history. Life is a syllogism, with intelligence as the major premise and historic realities as the conclusion. Our free institutions are great facts; they are conclusions in the world of real life from the intellectual data eternally subsistent in the world of intelligence.

We have our social frame work, our actual social life under the shadow of certain forms of law, our statutes and our constitutions. All these are conclusions wrought from larger principles of intelligence. In so far as we differ from the nations of the east that are warring to-day, that difference is largely due to certain broad principles of liberty that have entered into our national life and from which we are constantly making history as conclusions. The principles that I allude to are those that are formulated in the Declaration of Independence. They were the full and free expression of the spirit of liberty that moved the hearts of the American people. They were the utterance of Divine Life for that grand stage of human development. They were the major premise of the civil and political history of the American people. As the words of Christ cover all the ages of the church, and as those words are increasingly fulfilled as the ages progress in knowledge and righteousness; so the words of the Declaration are for all advances in government, and they will be fulfilled in proportion as government is perfected. I can here only occupy your time long enough to turn the light upon a few of the inscriptions upon the temple of liberty, that you may read them as they stand emblazoned there, and apply their meanings to the subject we are now considering.

When the fathers stood together in that revolutionary council, they stood free and independent of every nation on earth. The only sovereign to whom they sought to declare allegiance was the God of heaven, the Creator of all. When they said that "All men are created equal," they meant to recognize the handiwork and institution of the Almighty. When they spoke of "inalienable rights" they spoke of them as being made "inalienable" only by "their Creator." When they spoke of human governments, they spoke of them as being inferior to the constitution im-

planted in human nature by God Himself. They said that governments were made to "secure these rights," and that when they failed to do so, they should be "altered" and "abolished," and others framed that would more fully carry out the purpose of God. They said that the only condition on which governments should operate and control the lives of men was the "consent of the governed." These are some of the divinely illumined principles that bear upon the subject in hand. The fathers meant by saying that "all men are created equal," just what is expressed in the section we are now discussing; that men and women shall "equally enjoy all civil, political and religious rights and privileges." These principles are self-evident in their verity. I do not need to argue or explain them. We can read them as we run; "the way-faring man though a fool" need not misunderstand them. Men and women, in the Declaration of Independence, stand on an equality, just as they did in the mind of the Creator when He said (Gen. i: 26, 27), "And God said, let us make man in our own image, after our likeness, and let them have dominion." Here we have the same Divine image for both; they have the same blood, the same nature, the same intelligence, the same moral law, the same responsibility, the same destiny. Our conscript fathers recognized this sameness of essential qualities and relationship, and on these grounds they said that "All men are created equal." Their declaration was expressive of the purpose and counsels of the Great Creator, and this first section expressly declares the purpose and intent of the declaration of the fathers.

Moreover, when government steps in to perform its office in the world, it must be in subordination to these principles; that is, to "secure these rights." And the condition precedent on which alone government can exert its authority over men is the "consent of the gov-

erned." On any other terms government is usurpation and tyranny. Whatever the right may be, whether of life, liberty or property, government must first obtain jurisdiction through the "consent of the governed," by means of normal and equal representation. There are thousands of women taxpayers in Utah; more in proportion to population than in any other State; so long as they acquiesce in being represented by the other half of society, we may conclude that no open violence is done them in respect to their civil and political rights. But whenever such women disclaim such representation, whenever they claim their right to be governed only as they yield their "consent," according to the declaration, we are guilty of usurpation and tyranny whenever we resolve to make them amenable to our government, without first providing for obtaining their consent through the ordinary channels of representation. We know that the entire American revolution originated in the refusal of Great Britain to accord representation as a condition of taxation; and it seems impossible that in this dawning of the twentieth century any member of this Convention would seek to perpetrate the same injustice in the institutions that we are now to frame for Utah.

Precedents arise when the world of intelligence and principle becomes embodied in the world of fact and history. Principles are eternal; so that with respect to them in an absolute sense, there is "nothing new under the sun." But, as successive ages present new phases of principle, we comprehend the saying, as applied to every epoch in history, "Behold I make all things new." We say of the past that it is a light and a guide to the present. Patrick Henry said, "There is but one lamp by which my feet are guided, and that is the lamp of experience." It is to experience that profoundest wisdom appeals. The system of law that conserves our rights and liberties, is a system of well ordered

and well preserved experiences. It is a system of facts and precedents, comprehensive, diversified, and rising into a body of harmonious, practical and authoritative knowledge.

But, mark you! the world would have perished long ago had it not been possible for it to grow out of, above and beyond the precedents and experiences of any preceding age. It is wisdom to respect precedents, but it is folly and destruction to be bound by them to the extent that we shall not modify them, reform them, cast some of them away, and interpret the deeper meaning of others. Suppose the feudal system which was so deeply rooted into Anglo-Saxon civilization during the middle ages had held full sway on the score of precedent and experience? To-day, if in existence at all, we should in a vast majority of cases be held in the most abject bondage. Suppose our forefathers had been governed entirely by precedent and usage. To-day we should be in a state of colonial serfdom to Great Britain. Suppose the train of legal precedents that culminated in the Dred Scott decision of Chief Justice Taney had been acquiesced in by the American people? To-day we should be dominated by the slave oligarchy, and the enfranchised millions would still be the chattels of their owners. Now the great thought underlying all this diversity and apparent contradiction of experience and precedent with principle is that while absolute truth and principle are eternal and immutable, yet it is only in proportion as humanity grows to its full stature that they can be incorporated into human life and institutions. Hence every age has a deep kernel of truth within its social life; but the purely practical and superficial beliefs, experiences and precedents must be sloughed off like the bark of the eucalyptus tree; for they are misleading for any subsequent age, valuable only as milestones that mark the progress of growth

from crude beginnings to larger and truer civilization.

In relation to the subject in hand, the first section of the article on suffrage, the proposition that I lay down as a conclusion from the foregoing remarks under this head, is that the distinctive principles of American political history were promulgated by the fathers in the revolutionary Congress of 1776; and that American precedents will grow in harmony therewith from age to age until the fullness of those principles shall have expression in American political and civil life. We have seen already, in the light of one of the most sanguinary and persistent struggles in the history of the world, that while Thomas Jefferson perceived the application of those principles to the condition of the slave, and said, "I tremble when I remember that God is just;" yet the body of the country did not feel the force of the divine truth that weighed upon his soul. So it was left to the people as a whole to grow into a knowledge of the truth until it should burn upon their hearts, and reveal to them that slavery was in direct violation of the principles of liberty laid down in the Declaration. When the time finally arrived and the genius of liberty struck the hour for old things to pass away and all things to be made new, the inhumane precedents of all past years were swept to the winds by the besom of destruction. Abraham Lincoln stood out as the servant of God to give effect to the words of Divine inspiration through Thomas Jefferson and the other seers of American freedom. With one desperate carnival of death, the dark cloud, like a funeral pall, rolled away! The sky became clear, and slavery was gone! The Constitution of the United States had sloughed off the dead bark of selfishness and inhumanity that had grown upon it from the precedents of Rome and Greece and all the barbarous past. That Constitution was renewed by in-

corporating within it the eternal principles of the Declaration of Independence.

So it must be with the suffrage question. Lincoln saw and declared that under the principles of American liberty, it was a violation of the trust reposed in us by the God of liberty to hold half our population in a state of disfranchisement. He declared that women as well as men were entitled to the franchise. He knew, too, that the time had not come for action in the matter; but we may rest assured that if our country is to have a future, it must be on condition that the truths which lie at the foundation of our nationality must have freer and fuller course in our civil and political life as the years roll on.

At the start of our country's history the women by custom and usage gave a tacit and implied "consent" that in public affairs they should be "represented" by the suffrage of the male half of the population. The precedents have largely run in this direction. But, as in the case of African slavery, the political equality of man and woman as a truth of the Declaration has stood out in manifestation of dissent through many years. At first this truth was but a speck on the horizon not larger than a man's hand, like the rising cloud before the eyes of the prophet of old. Soon equal suffrage, as an issue, began to fill the sky; and now we know that a great change in political life is upon us. Old things must pass away; all things must be renewed in the light of the undying principles of American liberty.

We have now a respectable number of precedents on the lines which I advocate. The section now under consideration is taken bodily from the organic law of an adjoining state. The case of Wyoming is peculiarly instructive. Her natural resources and topography are similar to our own; her wealth and population are inferior, and in respect to educational facilities and popular intelligence we may perhaps claim an

equal precedence, according to the United States census. But the point of importance is that Wyoming legalized woman suffrage during twenty years of the territorial government preceding statehood. On the eve of statehood the governor gave public testimonials of the highest character in behalf of the efficiency and value of woman's enfranchisement. He predicted that it would be incorporated into the state government. And it was so incorporated, notwithstanding at one point of the proceedings in Congress relative to Wyoming statehood, there came an opportunity to carry the measure in case the woman suffrage feature of their constitution were eliminated. Senator Carey wired the Wyoming people, telling them the circumstances, and asking if they wished statehood on condition that equal suffrage be changed to male suffrage. His constituents replied that unless women were admitted to equal suffrage they preferred to remain a territory. In the end the objections to the equal suffrage feature were overcome, and hence we have the section before us as a part of the organic law of Wyoming.

Under date of March 23, 1895, United States Senator C. D. Clark of Wyoming writes concerning equal suffrage in that state as follows:

So far as the operation of the law in this state is concerned, we were so well satisfied with twenty years' experience under the territorial government that it went into our constitution with but one dissenting vote, although many thought that such a section in our constitution might result in its rejection by Congress. If it does nothing else it fulfills the theory of true representative government, and in this state, at least, has resulted in none of the evils prophesied. It has not lowered womanhood. It has not been the fruitful source of family disagreements feared. Women do generally take advantage of the right to vote, and vote intelligently. It has been years since we have had trouble at the polls, quiet and order, in my opinion, being due, however, to two causes, the presence of women as well as our very efficient election laws. One impor-

tant feature I might mention and that is that in view of the woman vote no party dare nominate notoriously immoral men, for fear of defeat by that vote. Regarding the adoption of the system in other states I perhaps am not qualified to judge, but I see no reason why its operation should not be generally the same elsewhere as it is with us. It is surely true that after many years' experience Wyoming would not be content to return to the old limits, as, in our opinion, the absence of ill results is conclusive proof of the wisdom of the proposition, because in theory at least the plan is right

As to Colorado, her United States senators, Teller and Wolcott, say:

Women bring to the exercise of the right of equal suffrage an intelligence fully equal to that of the male voter. One of the apparent results of the presence of women as participators in political matters is that political parties must exercise greater care than before as to the character and standing of nominees for office. The presence of women at the polls is looked upon as an undisguised blessing, and if the question as to whether the right of suffrage should be bestowed on women should be again submitted to the voters of Colorado, it would be carried in the affirmative by a far greater majority than it received a year ago.

The same expedient has been resorted to in Utah to prevent equal suffrage that was tried in Wyoming. We are told in the minority report that "statehood will be imperilled by it," that "a widespread fear prevails that with the franchise restored the old overwhelming force would destroy the present equality of parties and awaken a terrible temptation on the part of those who ruled before to resume their sway by working upon the generous impulses and religious instincts of women, which would result in political, if not social and business, ostracism of the minority." I cannot believe that this fear is so widespread as the opponents of equal suffrage would have us believe. It seems to me impossible that it can be so; but even if there were such a fear, it is utterly groundless and without justification. If any people ever gave evidence of genuine sincerity in their politi-

cal conduct, the majority of the people of Utah have unmistakably demonstrated the most unfeigned sincerity in their "division on national party lines." To say that women would be swayed by their "impulses and religious instincts," is to insinuate that they are either lacking in intelligence or wanting in integrity. Our opponents expressly disclaim the former, and we emphatically deny the latter. The inference that danger would ensue to the government if women were permitted to take part in its affairs, solely because they are likely to follow "generous impulses," is not creditable to the men who have hitherto controlled the government. Do the minority mean that generous impulses are now excluded from the administration of government and that it would be a dangerous departure to allow such impulses to be exercised? Surely the State can afford to run the risk of danger from such a source.

The same apprehensions that are said to exist concerning the women could just as well prevail with regard to the men, and general distrust would be the result. Indeed they were so entertained till events proved their utter falsity. If you believe that my wife cannot be safely trusted with the ballot, do you not also believe that it is unsafe in my hands? And if not, why not? She is just as solicitous for the public weal as I am and could not do a wrong to society more easily than her husband. Is it not a fact, gentlemen, that the objection is fanciful; or to say the most that could be said, is it not sentimental rather than real? This fear is idle and futile. The suspicion is unjust. The women of Utah exercised the privileges of electors for seventeen years, and I have yet to learn of a single instance in which that sacred privilege was abused. The franchise was not taken away from them because they were deemed unworthy or unfit for the trust, but for other reasons which have long

since ceased to exist. The least we can do is to restore it in the Constitution.

Experience has shown that new responsibilities carry with them the determination to fit one's self for the new duties imposed. As opportunities have been afforded to women to acquire the higher branches of education and become learned in the professions, they have embraced them. Their minds and characters have responded to their enlarged opportunities and they have shown themselves as capable of independent thought and action as men. So it will be in the new State. Women will qualify themselves for the duties of citizenship and they will think and act from their own trained intelligence. Their "generous impulses" will supply a new element in politics, which has long been needed to check the tendency towards degeneration. They will perform their mission as vital members of the State with as high a degree of wisdom and prudence and certainly with no less integrity, than men.

So I say that if the price of statehood is the disfranchisement of one-half of the people; if our wives and mothers, our sisters and daughters, are to be accounted either unworthy or incapacitated to exercise the rights and privileges of citizenship, then, however precious the boon may be, it is not worth the price demanded, and I am content to share with them the disabilities of territorial vassalage till the time shall come, as it will come in the providence of God, when all can stand side by side on the broad platform of human equality, of equal rights, and of equal capacity.

It is claimed by our opponents that equal suffrage is a menace to the home. If I believed that, rather should my tongue cleave to the roof of my mouth, and my hand forget its cunning, than that I should say or do aught to promote it. I yield to no man in love and veneration for the home. I believe with the supreme court of the United States

that the sanctities of husband and wife constitute "the greatest solace of human existence." But I believe in the home where husband and wife are equal, where they are companions, partners if you please, in the labors and cares and joys of life. I know that such a home and family can exist without the impairment of a single womanly attribute, and that greater happiness is thus attained than by preserving the old time distinctions of the spheres of the sexes. Neither men nor women can know their true sphere till there is perfect freedom to both.

It is said by our opponents that women are better than men, and therefore they ought not to have the franchise. I have heard this argument used, if argument it may be called, a great many times, but I have never yet known a woman who felt complimented by the statement that she was too good to exercise the same rights and privileges as a man. My experience and observation lead me to believe that while men admit the superiority of women in many respects, the latter do not care so much for this admission as they do for an acknowledgment of their equality, and that equality we are bound in honor to concede. There is a world of meaning in the words of that bright woman who said, "Women need justice as well as love."

It has been said that women do not want to vote. This may be true of some women, but no one can truthfully deny that the majority of the women of Utah demand the suffrage. To say that some of them do not desire to vote is no argument, because there are some men who do not care to vote, yet no one would think of depriving one man of that privilege because some other man did not prize it. There are women who are dependent upon their own exertions for support, and they should have the aid and protection of the ballot to help them in the struggle for existence, even though some of

their more favored sisters do not desire it. Besides, no one will be compelled to vote if the privilege is granted. Women will be as free to stay away from the polls as men are now. There is no compulsion about the matter.

It is claimed that women are more likely to be governed by impulse than by reason. Meaning, I suppose, that they act on intuition, instead of taking time to reach conclusions by reasoning, as men do. What we call intuition in woman is oftentimes the very essence of reason. She arrives at conclusions quicker than man, but her conclusions are nevertheless correct. She reaches the truth at a single bound, while man is clumsily striving to reach the same result by a slower process of reasoning. Why is this? It is a scientific truth that her nervous structure is better fitted for receiving and transmitting vibrations with vividness and swiftness than that of man. Intuition has a mechanism in her physical organism of the nature of a delicate electric plant. By it she is brought into more intimate relation with the universal intelligence than her duller companion. She is rarely misled, because she is in closer connection with the subliminal consciousness and receives the inspiration of the Divine Spirit. Why, then, should not her endowments of mind and heart be utilized in the councils of the State and her womanly influence go forth for the welfare of society?

The minority say, "Surely no one desires a return to the conditions of the past." Certainly not, and least of all the women. But why should equal suffrage produce such dire results? If the division of men on national party lines has been its own vindication in the production of harmony and good will among the male element of society, why should it not produce similar results among women and cause them to know and appreciate each other better? They will undoubtedly align themselves with the great political parties. Even now

they are democrats and republicans populists and prohibitionists. No reasonable man can believe that the women of Utah have listened to the political discussions of the past five years without forming convictions and taking sides in the great contest. No, my friends, the imagined danger is unreal, and if, instead of presaging disaster, we shall confidently turn our eyes to the light, renew our faith in human nature, and, with true purpose of heart, help to avert anticipated evils, I feel from the very depths of my soul that no evil will come. To do this is the duty, as I conceive, of every citizen of Utah. How much better such a course than to deny to women their rights because we choose to cherish a fear that evil might come from granting them. I do not believe in such Jesuitical doctrine. To do wrong that good may come is never right. The wrong always remains but the good never comes. It is only by fidelity to conscience and right that we can hope to maintain self-respect and promote the welfare of the State. I do not believe in an expediency that counsels a departure from the right in order to remedy a possible wrong. It is too closely allied to the argument of tyranny.

Expediency in the best sense and in the broadest form is the highest wisdom of the statesman, and that expediency asks equal suffrage at our hands. Expediency requires the use of the best means that circumstances will supply for the highest and truest ends that can be attained under the conditions that prevail. There are absolute principles at the foundation of things. These are as unchangeable as the axioms of mathematics. There are perfect ideals to be attained in the process of the world's evolution. We are, age after age, approximating those ideals. But the whole course of progress is beset with failures and imperfections. Progress implies defective conditions to start with. Knowledge and experience, cus-

toms and habits, laws and institutions, are all to be acquired by the race in its onward march. There has been no stopping place for society from the beginning. At every stage there is a better and truer beyond. If absolute principles have been enunciated in the past, it is the work of the ages to incorporate them into laws and to embody them in social life.

Hence, it is only as proposed measures are expedient under all the circumstances, broadly considered, that they should become laws. In a barbarous state of mankind, it would be in vain to commence with free institutions of any description; for such institutions are only adapted to a people of advanced intelligence and experience. All such savage tribes will provide for themselves various forms of absolutism and chieftainship until they are prepared for something better. But passing by the consideration of barbarous races and remote times, I call your attention to the present state of civilization, and to the people whom we represent. What is expedient for Utah? and especially, what is expedient with respect to the electoral system that we are about to pass upon? I claim that the section we have in hand will reflect in its adoption the highest expediency on the part of this Convention.

The primary thought to which I call your attention as the basis of expediency is the most comprehensive of all that enter into the complex notion of government—I mean that of sovereignty. One of the most acute foreign writers that ever philosophized on American institutions, De Tocquerville, in volume 1, page 36, of his *Democracy of America*, says:

Whenever the political laws of the United States are to be discussed, it is with the doctrine of the sovereignty of the people that we must begin.

Beginning with that doctrine, we inquire what sovereignty means. In an organized governmental form, whether

that of monarchy, aristocracy or democracy, it means "the supreme power of the state." In our country, as the basis of our government, sovereignty lies in the whole population, the entire citizenship of the country. Says Jamieson, in his excellent work on *Constitutional Conventions*, page 26, having previously discussed the question of sovereignty:

In the general discussion of sovereignty, in the preceding sections, that power has been supposed to reside in the body politic, comprising the whole population of the commonwealth, without distinction of age or sex.

Pomeroy, in his *Constitutional Law*, page 5, says:

The sovereign power consists in the collective will and in the faculty of wielding and disposing those forces which obey that will:

The Constitution of the United States begins its preamble with these words, "We, the people." All other constitutions of the American Union plant themselves upon the same conception, either in the same words, or in words expressing the same meaning. They all assume that the supreme power resides primarily in those human souls into which the Creator has breathed the breath of immortal life. But what is meant by "the people," to which all these definitions and constitutions point? Professor Franklin H. Giddings, one of the foremost writers in the United States on sociology, in his work on *The Theory of Sociology*, page 22, says:

How is it with the theory of the state? Political science finds its premises in the fact of human nature. The motive forces of political life, and also of economic life, are the desires of men, but under another aspect. They are desires no longer individual merely; and no longer a craving for satisfactions that must come for the most part in material forms. No, there are desires massed and generalized; desires felt simultaneously and continuously by thousands, or even by millions of men, who are by them simultaneously moved to concerted action. They are desires of what we may call the social mind in

distinction from the individual mind; and they are chiefly for such things as national power and renown, or conditions of liberty and peace. Transmuted into will they become sovereignty, the obedience compelling power of the state.

Society in an organism, and recent writers coming in even later than Spencer, the most notable, perhaps, Professor Lester F. Ward, in *Psychic Factors of Civilization*, all teach that the central force of society is the social consciousness, will and intellect. There is a social mind independent of any individual mind; and it is this social mind that constitutes public opinion, popular sentiment and national sovereignty. This social mind writes its will in statutes, laws and constitutions; but when the social mind changes, as it does from age to age, the law grows obsolete, the constitutions are framed anew, or abandoned; and the forms of government thus superseded fade away into the shadows of the past. But the social consciousness, the fountain of sovereignty, is ever renewed with the vigor of eternal youth.

With this exposition of sovereignty as the social consciousness and will of the people, we are prepared to appreciate the solemn, and I may say lamentable significance of a doctrine laid down by Mr. Cooley in his *Constitutional Limitations*, page 40. He says. "When we say the sovereignty of the state is vested in the people, the question very naturally presents itself, what are we to understand by the people as used in this connection? What should be the correct rule upon this subject, it does not fall within our province to consider." Think of it! Here is the foremost constitutional authority in the world, perhaps, who declares that it does not fall within his province to say what the correct rule of exercising the sovereignty of a state should be. In what follows he gives the rule that most of the states have adopted; but

he has already said that it is not his province to state the "correct" rule. Presumably what he does give as the general rule of the states is not the correct one. The rule that he gives is as follows, on the same page: "As a practical fact the sovereignty is vested in those persons who are permitted by the constitution of the state to exercise the elective franchise. Certain classes have been almost universally excluded—the woman from mixed motives but mainly, perhaps, because, in the natural relation of marriage, she was supposed to be under the influence of her husband, and, where the common law prevailed, actually was in a condition of dependence upon and subjection to him."

Here you have a statement of the rule actually obtaining in the framing of our state constitutions in general, with respect to the greatest of all facts entering into the structure of government—that of sovereignty—the social consciousness and will—the voice of God in the human soul. It is noble of this great author to say that he does not propose to state the "correct" rule, that it is no part of his work to say what "should be." The truth is, the rule that he gives is the rule that we have followed hitherto in most of the states, and that rule is a falsification of the Declaration of Independence and an arbitrary denial of the natural equality of the sexes; it is usurpation and tyranny over one-half our population, many thousands of whom are independent wealth creators and taxpayers in Utah, and in other states of our Union. Shall we perpetuate this injustice? Shall we give further sanction to a perversion so vital to the fundamental principles of our free government? I have shown that on the score of principle, we have no warrant for such an unjust and inhumane discrimination. I have shown that our best and truest precedents are now pointing the other way. I now

wish to conclude this head by showing that the highest expediency confirms the logic of principles and precedents.

The sovereignty of human aggregates gathered together as they are into nationalities over the earth, is the region in which the Infinite Life manifests itself, and in which the purpose of the Creator and the destiny of nations are wrought out. Whatever happens to a nation is the result of the nature and conduct of its sovereignty, its mind and will as an organic whole. We know that the nations of the past have all faded into sepulchral gloom. They live only in the annals and ruins that mark their oblivion. We can now see how fragmentary and partial their national life was. And, if we are hastening on to a similar fate, the central cause of our danger is that our real, underlying, sovereign life is not truly represented in our government. Permit me to illustrate: The forces of the universe are all correlated. There is no element of force or atom of matter that is lost or wasted. All are renewed in some correlated form. It is in this view that universal nature becomes perpetual. Were forces or substances lost, the world would run down and become extinct. In a way somewhat similar the two halves of human nature are correlated; and to restrict the sovereign functions of a nation to the will of one-half its inhabitants, is to insure such a partial representation and correlation of the social consciousness, that imperfection and failure must result.

The testimony of scientific investigation is that with the establishment of the family, even in its rudest form, came the idea of property. There could otherwise be no conception of the deed for property and consequently the value of it. With the family property originated, and with the family government took its rise. All through the ages, women have been the conservative power that has prevented nations from being wrecked into fragments. The

home and the family have always been the sheet anchor of prosperity rather than the cabinet and council. The destruction of nations has largely resulted because its councils were divorced from the home life, from the people at large, from social consciousness. There was no correlation and interaction within the central source—the power—the sovereignty—the popular will. I am bold to say that within the aggregate mind of the disfranchised half of our population in these United States, there are elements of reserved power that will prove invaluable to our national security and prosperity.

We have laid hands upon the sacred ark of God, and stricken down half its potency for our welfare; and in the end we could not do otherwise but reap disaster. Why should a nation fail, except that it falls into discord with itself; and how could it do otherwise so long as only one class of its population embodies its sovereignty? So long as women in the past have tacitly consented to be represented by the other sex, there has been an excuse for unequal representation. But now that millions of taxpaying women in the United States ask to form part of the actual and visible sovereignty, it is but just and right to enfranchise them; and by every principle of truth and liberty it is unjust and tyrannical to refuse them this endowment. In this view, and from the deepest sources of our national life, I claim that the highest expediency and the most profound statesmanship enjoin upon us the fullest measure of justice under our boasted free institutions. If we cannot see these things, there is no need of sunlight; if we cannot do them, there is no need of conscience and a sense of civil obligation.

The truths of religion, of life and destiny, were revealed to men through the Bible and other inspired writings; and the ideals of philosophy, those that appertain to thought and being, were

made apparent to such thinkers as Socrates and Plato and those of the far East who preceded them, as also those who have followed them as guides and luminaries of the human intellect. These have been stars in the firmament, shining in the midst of twilight intelligence, if not barbarous darkness and ignorance. Aside from these meteoric displays of religious and philosophical knowledge, the race has been for thousands of years emerging from conditions analogous to those of the lower order of animals. This is the testimony of secular history and the organic sciences.

A few thousand years ago, men and women lived in the most abject savagery. These conditions still prevail in some regions of the earth. In all such places brute force holds supremacy. Might is right, and moral perceptions are based on the sway of physical force and brute strength. The survival of the fittest is survival of the strongest. It is the reign of force, horn and tusk, knife and club—these are the symbols of power and sovereignty in the early stages of human development, whether those stages exist now or have been superseded by a higher order of life.

In the outset of human progress, woman is subordinated to the selfishness, passion, inhumanity and brutality of man. His life is mainly muscular, physical, sensual and brutal. His reason and affection are undeveloped. Woman, because of her motherhood, is incapacitated for the shock and struggle of physical supremacy; hence, in the early stages, she is in thralldom to her brutal lord. In the writings of travelers we learn that even recently in some barbarous regions, the suitor for a wife, thinking of no other charm than a club, would lie in ambush, and when the object of his regards came within range, he would spring from his lair, strike her a stunning blow, carry her off to his tepee, and ever after hold her in such subjection to himself as his

nature and passions might dictate. Even in this rude barbarism, we have the beginning of the family, the dawn of the home, the inauguration of the idea of property, the inception of government; for government is but the growth of a rude and barbarous family into a cluster of families, with the adjustments and improvements that naturally arise with the increase of knowledge.

Therefore, while written history and formal government indicated considerable advances in human progress, they both point backward to a period of brute force, a supremacy of physical might, in which woman figures as a slave to the superior prowess of man. On the other hand, in the very nature and essence of progress, we find a remedy. It is this: in the process of evolution, the motive powers of life, the desires, rise from mere animal impulse and instinct to such as are more rational and intelligent. That is, as man's mind develops he is governed more by reason and less by force. His affections grow more enlightened and spiritual. He becomes more humane, benevolent and philanthropic. He grows naturally more and more into the perfect life. The Christian principle is native to the human soul, and to realize it, man must grow from the brutal into the spiritual. Hence, progress as a process rises more and more into the physical nature of man for its motive power. Progress brings the race under the control of the law of love and benevolence. Our laws and institutions grow more humane. We provide more amply for the poor. We provide educational facilities for all. Freedom enlarges her sway; liberty grows broader and more generous. Nations submit their grievances to arbitration. International law and comity prevail. In a thousand ways the world comes under the control of the higher and more spiritual affection and intelligence of the human mind. This is the process and tendency of progress.

Now from the standpoint of the most advanced science, we may affirm that the key and clue to all this progress, humanity and benevolence is found in the female instinct of *motherhood affection*. In the brute world we find the mother's love for offspring stronger than the instinct for self preservation. This is an unfailing passion throughout the whole course of organic life, whether brute or human. This is natural altruism or mother love, and in Christ it broadens out to include the whole human race. As nations progress they become humanized, Christianized; they are drawn more and more into the altruism of nature, the maternal instinct of the race. Men may feel reluctant to make the acknowledgment, but it is true that in proportion as our laws, institutions and social customs become humane and philanthropic, in the same proportion they conform to the instincts and affections that are naturally and historically characteristic of womanliness. It was through this channel that the creating love and charity first flowed into human nature, and thence into all human social relations. We may say, therefore, that humane and benevolent progress is essentially womanly and has its origin in the self-sacrifice of motherhood. This principle in its development will give us educational institutions, charitable foundations, a larger brotherhood in social relations, a more vital co-operation in government.

As I have already stated, a nation is an organism, and has a will and intelligence peculiar to itself; it is an enlarged family. Government is a species of housekeeping. It is equally true that all modern ideas of government, such as are given in the Declaration of Independence, locate the source, origin and foundation of government in the whole membership of the household, in the several individuals that constitute the family. Monarchial, aristocratic and class governments withdraw from

the membership of the family. An elder son, or child of fortune usurps authority over his kinsmen. In this country the principle of family government has been adopted in theory to the fullest extent. "We, the people," is the formula for the beginning of all government. The only question is: Shall we adopt our own theory and put it into practice? That we should do so in Utah and all over the United States is the logic of the situation. It is the lesson of the past, the hope of the future.

Moreover, our civilization in its wealthier centers is now exhibiting a type which is really most alarming and which in my opinion, can only be remedied by enlarging the sphere and functions of woman so that she will be vitally connected with the real and substantial interests of society. I mean that among people in the great cities, who are in possession of all the accessories of wealth, where true civilization ought to be the highest and most refined, there it is already a comparative failure. Women are absorbed in fashion, frivolity, vanity, display and the thousand trivialities that render life frivolous and worthless. They have no part or lot in the real work of society; they are utterly ignored in the substantial realities of industrial, civil and political life; and being thus driven to the delusive shadows of opulent vanity, they become the moths and butterflies that float about in the halls and parlors of palatial mansions and air themselves at watering places, the creatures of caprice and weakness, the gaudy glare of ill-gotten wealth under our lopsided economic system. This is the wealthy excrescence of our civilization. As long as woman's sphere is divorced from the realities of civil, political and economic life, we dare not become greatly prosperous as a people. Because under such circumstances wealth leads to destruction. Such people do not perpetuate their own species; and if they did, and if such progeny should become numer-

ous, we would become a race of dudes and vanish from the earth in pure disgust. What is necessary in all such cases is that woman should become a real helpmate and companion for man. She should share his knowledge, his toils, his cares, his pleasures and his sorrows. God made her to be a companion in the fullest and truest sense of the word. He gave her intelligence, sympathy and intuition for such companionship; and man destroys his prospects for human progress by making her a creature for his vanity and an instrument for his selfishness. I repeat again that we dare not become prosperous until both men and women are put in a way to learn and be educated by the great realities of life, political and social; and so long as men pervert the plans of the Creator they will reap failure and dishonor.

Only recently women have been permitted to enter the universities, professions and business walks of life; and while this has been beneficial to the women, and has made them more independent and self-respecting, it has at the same time tended to purify business and add to public life an element of brightness and cheerfulness. We all know something of the influence of the woman nature in a mining camp. When composed of men exclusively it soon recedes backwards into rudeness, profanity and vulgarity. Let woman come upon the scene and a transformation soon takes place. Men become human, loving, self-respecting and courteous. The better and higher impulses of life are encouraged, and the mining camp puts on the air of respectable and orderly society. Is any man so dull as not to perceive that what is accomplished here in a little mining community would be of inestimable value when put into operation in the State and in the nation at large? Government is simply national housekeeping, and we all know that woman has peculiar gifts for housekeeping. She is the original housekeeper

and home maker. Out of her very life, and in her deepest sympathies she made the home, she guarded the little inmates of the home; through her the little bunch of chattels was gathered about the home; and if she is given a chance she will do a noble and God-given part in purifying and perfecting the national household.

It will be seen, therefore, from the question as previously stated, that civil and political rights and privileges as set forth in this discussion, are incidents and phases of government; that all human government is founded upon the "consent" of the governed, which is the fundamental condition antecedent to all government; that human beings are "by their Creator" empowered to give or withhold this consent, just in proportion as government "secures" the rights of life, liberty and happiness, and that it can only be given through the customary channels of representation; that the section now under consideration provides for the full "consent" of our people according to the Declaration of Independence and the laws written upon human hearts by the God of nature; that civil and political rights and privileges are wholly independent of sex distinctions; that all rights have their source and reason in human nature; which is constituted in the likeness of the Divine Sovereignty; that humanity and its endowments come first, and government with its privileges is subordinate; that it is tyranny to pervert this order which has been incorporated into our institutions and made a part of our temple of liberty. It is only, as I believe, by the adoption of this section that we can inaugurate the true theory of government, or show forth the full purpose of God in human affairs. It is only as we incorporate equal suffrage into our organic law that we can fully interpret the social consciousness and will; that we can carry the home life with its order, purity, economy and thrift into government; that we can inaugurate

the beneficent and humane progress which is now the pride and glory of our civilization. Hence I reaffirm that equal suffrage should be provided in the Constitution, because it is just and right, and because it is in the highest and best sense expedient. I know that a majority of the members of this Convention concur with me in this belief. I have no doubt that a majority of the people of Utah entertain the same view, and so I feel assured that it will be incorporated in the organic law. The Constitution will be adopted by the people; our State will be admitted into the Union; equal suffrage will prove the brightest and purest ray of Utah's glorious star; it will shine forever in the immortal galaxy, as a beacon light on the tops of the mountains beckoning our sister states and territories upward and onward to the higher plane of civilization, and the fuller measure of civil and religious liberty.

Mr. CANNON. Mr. Chairman and gentlemen of the committee, I do not desire to take up very much time of your committee, but there are several points in connection with this minority report which I do not feel that I can pass over in silence. In the first place, a direct charge is made that the people of Utah, directly or indirectly, would be in a position, were statehood granted, to bring about destruction to those who constitute a minority in this Territory so far as religious connections are concerned. I submit, gentlemen of the committee, that the charge which is made here is not warranted by the facts in the case. I was this morning pleased to hear the gentleman from Davis County (Mr. Roberts) announce that he had not known what would be contained in the minority report, which he struggled so viciously to have introduced. I do not think that the past history of the people of Utah warrants any man or any set of men in making the charges that are contained in that

minority report. If you will permit me for a moment, I desire to call your attention to the fact that in 1892, at the time that the first election took place for a delegate after the division upon party lines, that in this Territory we had a republican executive, in Washington both houses of Congress were controlled by the republican party, a republican President sat in the presidential chair, and all of the interests of the people of Utah pointed to the advisability upon their part to curry favor with the national administration, and to elect at that time, a republican delegate to Congress. What was the result? We find that they elected, in spite of the efforts that were made, and in spite of the vicious campaign on the part of the republicans, a democratic delegate, and in doing so testified to the world that they were sincere and that they were not governed by party expediency. How was it in the next year? You will remember that in 1892 a tidal wave politically swept over our entire country and that in the next year, 1893, the democratic party was in possession fully of all branches of the government. We had a democratic governor, we had a democratic house, the senate was democratic, and the President was democratic. At that time upon the stump democrats made this kind of a charge and this kind of a logic: what good will it do you to elect a republican Legislature with a democratic governor, with a secretary of the state democratic, who would be governor in case of absence of the governor himself? What laws can you expect to engraft upon your statute books when that governor has the absolute veto power? At that time attempts were made to induce the people of Utah to vote on the ground of expediency, but they signally failed. Though the national party—though Utah, though her executive, in her different branches, was controlled by the democracy, the

Legislature which was elected at that time contained a majority of republicans in its feelings and tendencies.

The next year, the year which has just closed, 1894, after a democratic Congress had provided the Enabling Act by which it was expected that Utah would go into the Union at a time when the democracy claimed that it would again sweep the country and elect triumphantly a majority of the house, and in the senate, when everything pointed to the expediency of electing a democrat to represent the people of Utah in the halls of Congress as their delegate, when gratitude was urged as a cause why they should vote for the able man who represented the democratic party in that canvass, I say that when the people of Utah were deaf to the cry—to the plea for the expediency and said, "We will vote the sentiments that we have in our hearts, let it affect statehood however it may," that is the history of the people of Utah in connection with this division movement, and it is that with which they come before you at this time. Nobody has ever in the past been able to coerce them into doing that which the sentiment of the people did not approve. They have had a similar sentiment to that throughout the United States. You will find that when Utah went democratic the rest of the nation went democratic. You will find that when Utah went republican the rest of the nation, speaking of them generally, went republican. One spirit seems to permeate the country from one end to the other, and that spirit rests upon the people of Utah in common with the rest of the nation. When charged that in Utah people were governed by policy, they charge that which bears upon its face its own refutation, because they must be prophets indeed before elections take place to know what would be the sentiment throughout the country. In the next place, the charge was resented by our friend from

Davis County (Mr. Roberts) a gentleman whom I highly esteem, that the minority who presented this report were prompted by improper motives in withholding that report. You, who were here, (and doubtless all of the delegates were here yesterday,) know with what vigor he repelled that charge, and yet forsooth, how coolly he rests under a charge that forty thousand women in Utah Territory would be governed by improper motives, and would not vote as they saw the right would dictate that they should vote. In the language of Edmund Burke, you cannot indict a whole people. You cannot place that charge upon a whole class. Those who make it must make it for reasons known to themselves. But I throw back the charge and say, that the women of my acquaintance, those with whom I have associated, will not be governed by improper motives, that I would sooner trust my life, my honor, all that I have, with them than with the majority of the voters throughout the Territory of Utah at the present time.

It is not a fitting thing that we should permit a charge of this character to be made. They tell us in this minority report that woman has the intellectual attainments, that at least she is entitled by her natural endowments to vote intelligently, and as stated by the gentleman from Utah County, a great objection to her voting is that she is better than man. Be that as it may, I claim, gentlemen, that three things should constitute qualifications for voting: First, intelligence, second, purity of life and thought, and third, patriotism. Women have all these in the highest degree. They have the intelligence, it is conceded by all who have spoken. They have the purity, for it is conceded by all, including this minority who make this report; they have the patriotism, as the history of all time will show. Go to a nation

whose women are not pure and you will find there a nation whose men are not worthy of the name. Give me a nation of patriots and you will find that a nation of Cleopatras will corrupt a nation of Cæsars, and will bring down all the highest attributes and all the higher impulses to the groveling instincts that follow such a connection. If we admit a claim that the women of Utah are not entitled to this respect, I claim that then the men of Utah are not entitled to it. Because Congress saw fit to take from the women the elective franchise, because through the charges that were made against the men of Utah and their practices, they took from women that right which they had possessed for 17 years, is that any reason why you should perpetuate the wrong which was committed, the injustice which was done? Why it is too much like the first man who shielded himself and his weakness behind the woman and said that she gave him and he did eat. I have had some of my friends tell me that every ballot ought to have a bullet behind it, that the men who vote ought to have also the strength to carry a gun and go to war. Upon that principle, I submit that our friend John L. Sullivan and our friend Corbett ought to have two votes apiece and Alexander Stevens, one of the brightest men that we ever had and who was weak in his form, should not have been allowed to vote at all, because he was physically incapacitated to perform the duties of a soldier. We cannot decide it in that way. But woman has the strength within herself to inspire in others a love of country as she herself has always proved that she has the love of country. They claim in this minority report that a woman is bound by impulses and that she does things upon impulses, not believing that there is a law. Why, go back and read your history and you will find instances in every page where woman has not been governed solely by impulse, but where she has been governed by the

purest of all patriotism. Where will you find a man who has done more than did the Spartan mother, whose son had sold himself for precious gold, and who, coming back to his native land and finding that they knew of his perfidy, sought refuge in a place that was set apart, where the hand of men could not molest him? What was done by that Spartan mother? Knowing that under their law she could not and they could not bring him from his place of refuge, hers was the first hand to place, without a word, a stone in front of that door and set the example for her fellow men until they piled a heap of stones to that extent that he perished like a miserable rat in the hole into which he had gone. And how was it with the Spartan mothers too who saw their sons as they gave them their shields to go forth with them and told them to bring them back or come back upon them?

It was only that spirit which led Leonidas to defend with three hundred men the pass of Thermopylæ against the thousands, yea, the millions that Persia had brought there. On that occasion it was not the question of the number of ballots or the number of spears behind the ballots but it was the question of the spirit which animated those interested in that. Now, I find upon examination, that it is not only with bullets that women can do damage. That was illustrated this morning during the beautiful address of my friend from Davis County, Mr. Roberts, where he was so sweetly willing to die. When he came to that portion of his address it reminded me of Doctor Holmes' description, where he says:

Oh, woman, thy falchion is a glittering
eye;
If death lurk in it, oh, how sweet to die!
You take the hearts as Rudolph takes
the head;
We die with love, and never dream
we're dead.

Our friend here, after describing so beautifully how his grave had been dug, and telling how content he was to rest

in that grave, reminds me of a warrior upon a battlefield, who, after the swoon has passed from his eyes, after his terrific struggle, sees over him, not the foe he had expected, but some woman with her eyes beaming looks of pity, not of anger, and so when our friend gazed around upon the ladies who had assembled here this morning, like that man, awakened from his swoon, he was wont to say, "Oh, grave, where is thy victory; oh, death, where is thy sting?" [Laughter and applause.]

Mr. ROBINSON (Kane). Mr. Chairman, my speech will not be as long as that of the gentlemen who have preceded me, but being next to the younger members on this floor, I desire to place myself on record as not too cowardly to tell my convictions. I did come here, gentlemen, pledged to support the passage of a woman's suffrage act, not merely for my affiliations with the republican party, but by an inward consciousness that I was doing right. I want the gentleman that spoke of the star of duty this morning to understand it has gleamed as clearly upon my path according to the construction of my ideas, as it has upon his. There is another thing, gentlemen, that comforts me; it is not for me to reiterate all that has been said here to-day. My friend from Utah County has told us of the staple vote of a commonwealth. I contrast now our times with that of our forefathers, when Europe sent to us her best blood—when men and women sought this country that they might enjoy equal rights and privileges. Look at the difference now. They have made of us and of our country a dumping ground of iniquity. I speak in a general sense. There are men and women who seek our shores who cannot abide the laws of their fatherland. They are full of anarchistic feelings and they are stirring up strife. How are we to successfully combat with this flow? I answer this, by doubling up the staple

vote of this country by giving woman their suffrage. Cleopatra has been mentioned. Gentlemen may admire such woman as Cleopatra, as Niobe, as Catherine, as Elizabeth, and it is said that if women go into politics that they will lose this femininity that is so attractive; that the place for them is by the fireside; that we love them on account of their coy, modest ways, and that we should not bring them out to be sullied by the mire of politics. I tell you, that it is because we love them that we want them by our firesides, and not because we only admire them; and I want to tell you, gentlemen, that I am here to vote for woman's rights and woman's suffrage, and if my wife cannot stand side by side with me in voting for those who shall govern us, as it is a fundamental principle of our government that those who govern should do so only by the consent of the governed, I am willing to stay without the galaxy of states. I give my other five minutes to Mr. Varian, who was so kind as give all his time to Mr. Roberts this morning.

Mr. SQUIRES. Mr. Chairman, I know that there are a number of gentlemen on this floor who desire to be heard upon this question, and I know also that those who have sat here so patiently and listened to what has already been said, are somewhat wearied with the effort; I therefore move that the committee now arise and report progress.

Mr. ROBERTS. Will the gentleman withhold that just one moment?

Mr. SQUIRES. Well, if one moment is to be measured by the ten moments some gentlemen have taken here, I should not like to withdraw it.

Mr. ROBERTS. Will you do it for one minute?

Mr. SQUIRES. For one minute by the clock.

Mr. ROBERTS. Mr. Chairman, before this committee shall rise, I merely want to make a personal explanation. And

that is, gentlemen have seen fit to make much out of my waiving a discussion of the merits of this question. I did it, sir, out of a desire to save time to the Convention. Understanding that gentlemen have made up their minds as to how they are going to vote and nothing could be done in the way of conviction, I of course thought that the matter would go immediately almost to a vote, but since there has been a challenge for the discussion of this matter upon its merits, I shall do what I can to give that matter due consideration. I am prepared and was prepared this morning, merely using but three sheets of notes out of a possible fifteen upon the subject. And I shall be perfectly willing to place what I may have to say side by side with what has been said upon the merits of the question by other gentlemen, and I shall not object at all to running a tilt with my friend even from Utah County on the subject of logic. [Applause.]

Mr. SQUIRES. I now move that we rise and report progress.

The motion was agreed to.

The committee rose and reported as follows:

Your committee has had under consideration the article on elections and rights of suffrage and reports progress and asks leave to sit again.

The Convention then at 4:30 o'clock p. m. adjourned.

TWENTY-SIXTH DAY.

FRIDAY, March 29, 1895.

The Convention was called to order at 10 o'clock a. m. by President Smith.

The roll was called by the secretary and members found in attendance as follows:

Adams	Larson, L.
Allen	Lemmon
Anderson	Lewis
Barnes	Lowe, William
Bowdle	Lowe, Peter

Boyer	Low, Cache
Brandley	Lund
Button	Maeser
Buys	Mackintosh
Call	Maloney
Cannon	Maughan
Chidester	Miller
Christianson	Morris
Clark	Moritz
Coray	Murdock, Beaver
Corfman	Murdock, Wasatch
Crane	Murdock, Summit
Creer	Nebeker
Cunningham	Page
Cushing	Partridge
Driver	Peters
Eichnor	Peterson, Grand
Eldredge	Peterson, Sanpete
Engberg	Pierce
Evans, Weber	Preston
Evans, Utah	Raleigh
Farr	Richards
Francis	Ricks
Gibbs	Roberts
Goodwin	Robertson
Green	Robinson, Kane
Hammond	Robison, Wayne
Hart	Ryan
Haynes	Shurtliff
Halliday	Snow
Heybourne	Spencer
Hill	Squires
Howard	Stover
Hughes	Strevell
Hyde	Symons
Ivins	Thompson
James	Thoreson
Johnson	Thorne
Jolley	Thurman
Kiesel	Van Horne
Keith	Varian
Kearns	Warrum
Kerr	Wells
Kimball, Salt Lake	Whitney
Kimball, Weber	Williams
Lambert	Mr. President.

Prayer was offered by Rev. Dana W. Bartlett, of the Congregational Church.

The privilege of the floor was granted to Messrs. Allen, Pence, Shurtliff, Chambers, and Fullmer.

The journal of the twenty-fifth day's session was read and approved.

Petitions and memorials.

Mr. Bowdle presented a memorial praying for the submission of a separate article on the question of prohibition to a vote, of the people at the same election at which the Constitution is voted on, signed by members of the Woman's Christian Union, of Salt Lake City. Also a similar memorial signed by Mrs. Orr and 500 members. Also a similar memorial signed by Rev. E. M. Ross, and 12 others, all of which were referred to the committee on schedule, future amendments and miscellaneous.

Mr. Morris presented a similar petition signed by W. S. Hawkes and 177 others, legal voters of Salt Lake County, which was referred to the committee on schedule, future amendments and miscellaneous.

Reports of standing committees.

Committee on militia reported as follows:

MR. PRESIDENT:

Your committee having under consideration an article for insertion in the Constitution on militia, have the honor to report that they have had under consideration files Nos. 66 and 72, herewith returned, and submit the following as a substitute and recommend its adoption.

GEORGE RYAN,
Chairman.

The PRESIDENT. It will go to the committee on printing and on the calendar of the committee of the whole.

The Convention then resolved itself into committee of the whole, with Mr. Kimball, of Weber, in the chair.

COMMITTEE OF THE WHOLE.

Mr. IVINS. Mr. Chairman, I ask the privilege of the floor for the purpose of making a motion which may by some of my colleagues be regarded as ill-timed, but it is one it seems to me that is amply proper and in order at this stage of the proceedings. Therefore, if I shall receive a second to it, I desire

the opportunity of making a few words of explanation in regard to it. I move you, Mr. Chairman, that it be the sense of this committee that section 1 of the article on elections and rights of suffrage be now passed to its third reading without debate.

Seconded.

Now, Mr. Chairman, in support of this motion, I wish to say that in making it I have two objects in view. First, I am prompted by a question of economy, and secondly, by sweet charity. The question was before the Convention yesterday and was debated during the entire day. My friend from Davis County (Mr. Roberts) tells us that from fifteen pages of manuscript, he yesterday used three in making his argument. Now, I find upon a computation that I have made here, that it took fifty pages of printed manuscript and twenty-five pages of verbal argument to answer these three pages of notes from which the gentleman made his argument. Based upon this calculation if there are still twelve pages to come, it will require 300 pages of printed manuscript and verbal arguments to answer them. If it took us one day to listen to yesterday's argument, upon this basis, it will take us three and three-quarter days to hear that which is yet to come. Now, I am fully aware that a great many of my colleagues are desirous of being heard upon this question. My friend from Weber (Mr. Evans) has a large collection of notes here, and he is just running over with eloquence and good feeling which he wants to express in behalf of the fair sex. I also have fifteen or twenty pages myself. They are not reduced to writing yet, but I have them in my mind all right; but I have concluded, Mr. Chairman, that I can just change the title of my argument and bring it in later in some other place, and it will answer my purpose just as well. And so I have concluded that all things considered it will cost us

from two thousand to three thousand dollars to sit here and listen to these arguments, and to print and publish them. I ask myself will the end justify the means? It seems to me that sufficient has already been said upon this question. I was very anxious myself to introduce Moll Pitcher, Joan d'Arc, and Isabella of Spain, in this race as examples of virtue and patriotism, of what woman ought to be as against Cleopatra and Catherine of Russia, and Elizabeth of England, but I am willing to forego that from an economical standpoint.

Mr. EVANS (Weber). You have already got them in now.

Mr. IVINS. Now, Mr. Chairman, there is another question which enters into this discussion. It is not at all probable that the great majority of the members on the floor will participate in it at all, and viewed from the standpoint of charity, I want to call your attention to the affliction that will be placed upon the great majority if they have to sit here for three and three-quarter days more and listen to those arguments, to say nothing about what will be suffered by future generations when they come to read these debates, and so it does seem to me in all seriousness that this continued debate is useless. The members of this committee are committed to this question; we have crossed the Rubicon; there can be no doubt about this. It is an entirely one-sided affair, and I can compare it to nothing, Mr. Chairman and gentlemen of this committee, when I get right down to serious thought, but the assault of Don Quixote and his devout esquire Sancho Panza, upon the windmills of Spain. With all good feeling to those gentlemen who would like to be heard further on this subject, I really think it ought to be passed to its third reading, and let us go on to other fields of legitimate argument, where we will be more evenly matched, and where some good results are likely to come from the discussions

that will be had and the expenditure of the people's money.

Mr. VARIAN. Mr. Chairman, is there a motion in the committee of the whole to close debate on the first section and pass it to a third reading?

The CHAIRMAN. That is the nature of the motion, and I take it to be in the nature of a motion to cut off debate, which would be out of order, except with the unanimous consent of the committee.

Mr. IVINS. Will the gentleman allow me just a question?

Mr. VARIAN. I make the point of order.

Mr. IVINS. The motion is that it be the sense of this committee that the section be passed to its third reading. It is simply to get the sense of the committee, and I understand that it would be proper at any time to—

The CHAIRMAN. I suppose that your motion is in effect that the matter now pending before the committee be passed upon without further debate?

Mr. IVINS. My motion was made with a view of getting the sense of the committee on that point. I fully realize the fact that we cannot shut out debate.

The CHAIRMAN. The point of order being raised, I sustain the point of order.

Mr. VARIAN. Then there is no motion before the house?

The CHAIRMAN. Gentlemen of the committee, the question now pending before the committee is the substitute of the gentleman from Weber (Mr. Kiesel) offered for section one.

Mr. LUND. Mr. Chairman, I do not believe that argument on this subject should be shut off. Gentlemen of the Convention, it has not been opposed upon its merits to this time, and if I may have as much time as Mr. Ivins took in advocating economy, I desire to oppose—

The CHAIRMAN. Mr. Roberts has

the floor and yielded it until the question was stated.

Mr. LUND. Mr. Roberts has spoken once to this subject. I am opposed to any more time being taken, as president of the expense committee.

The CHAIRMAN. Mr. Roberts has the floor.

Mr. ROBERTS. Mr. Chairman, in order that the nerves of my friend may be somewhat settled, who attempted to speak, I wish to inform him that through the kindness of members on the floor, I have a list of names of gentlemen who have yielded me their time, that amounts to about two hours and thirty minutes.

[Laughter and applause.]

Mr. LUND. Mr. Chairman, I want a list of those names so that I can keep the expenditures in conformity with law.

Mr. ROBERTS. If it is necessary I will read the names.

The CHAIRMAN. No, sir; it is not necessary.

Mr. ROBERTS. Or submit them to the gentleman's private inspection. It is not at all likely, sir, that I shall occupy that length of time, but I thought it necessary to state that I had that wide margin to move in, so that I should not be interrupted upon the ground that I had exhausted the time.

Now, sir, having had full confidence in the fairness of my friend from Washington County (Mr. Ivins), I consented not to make an attempt to get the floor first this morning in the committee of the whole, but extended to him at his request the courtesy of first making a motion and a few remarks before I should proceed. Little did I think that lurking under that request and the smile with which it was made, there was a determination to cut off the debate, and prohibit my speaking altogether. [Applause.]

If this debate on the question of woman's suffrage is prolonged, I think this Convention ought not to hold me

responsible for it. Yesterday morning when I rose in my place to speak upon this question, a curious condition of affairs confronted me. The day before, I was surrounded by quite a number of enthusiastic friends, but a caucus was held that evening and gentlemen came to me the next morning and concluded that it was useless to make any fight whatever; that the overwhelming majority of the republican party or republican members on this floor, had gone into caucus and agreed that they would vote solidly for the proposition. I knew that that was the condition of my democratic friends, and therefore, I was confronted with the uselessness of argument, when men had closed their ears to reason, and were determined, no matter what their convictions upon the subject, to vote in favor of this measure, considering themselves bound by ill considered party platforms. But, sir, I still was of the opinion that if woman's suffrage should form a part of this Constitution, it would be a menace to its adoption, and I conceded it to be my duty, however useless an argument might be upon the merits of the case, to sound a note of warning and point out the danger. Therefore I waived the question upon its merits or the consideration of it. You may judge, sir, of my astonishment in the afternoon, therefore, when gentlemen arose upon this floor and upbraided me for dodging the main issue, and charged me with attempting to settle the solemn question touching the rights and privileges of perhaps forty thousand people in this Territory, upon the question of expediency alone. I do not charge the gentlemen with intended unfairness by taking that ground. The gentleman who made the charge in chief I believe to be incapable of an intentional injustice to a fellow member. For a man who proposes that his work shall be followed upon the lines of clear good sense and cold logic, who proposes to eliminate all feeling and sentiment and turn phil-

osopher and judge the question clearly in that light, he must hold, sir, that he ought to have a better regard for his primary propositions and get his premises right, or he may get entangled in his arguments and conclusions.

There are one or two other little matters that I want to set right before proceeding to the main issue before us, especially as it will enable us to judge of the logic of the gentleman.

In the course of my remarks yesterday morning, I ventured to point out to the Convention the condition in which I was placed, as some members had gently hinted, if I took the position I have taken upon this question, I would find my hopes blasted and supposed political aspirations killed. Disclaiming having political aspirations, I nevertheless referred to myself as standing in the midst of the ruins of these blasted hopes and political aspirations. Whereupon this logical gentleman suddenly flies to the conclusion that I had reference to each of you as a particular ruin, and that I stood in the midst of one hundred and seven such ruins. I know not what had passed in the gentleman's mind to lead him to the conclusion that he was one of the ruins referred to. And then, sir, following that keen incisiveness that is so characteristic of his logic, he forgets that one hundred and seven ruins that his own imagination had conjured up, and raised me into a magnificent ruin, the comparison of which could only be expressed by referring to that splendid ruin, the Coliseum of Rome. I think my friend rather stretched his logic in referring to the Coliseum and that he himself attempted a flight of oratory in order that he might get in this time worn expression:

While stands the Coliseum, Rome stands;
When falls the Coliseum, Rome falls;
And when Rome falls—the world.

I confess, sir, that if that is the character of the logic with which I am to be followed, when I come to arguing

the merits of this question, I say concerning it in the language of old Falstaff: "And thou lovest me Hal, no more, then?"

Again, by the gentleman's remarks, I was placed, I presume, in the opinion of some of the members here, in a very unenviable position, because it is thought that my course is inconsistent with political party platforms, and the gentleman read to us, as I understood, the plank in the platform of the democratic party on that subject, and announced with what pride he had himself drawn that plank in the platform. Now, I have been accusing another gentleman all along of doing that, and I am pleased to be corrected. A few days ago in conversation with this same gentleman, he told me of another plank in that platform, that he himself had drawn, and of which he was equally proud, and that was the plank which demanded a non-partisan convention to form this Constitution. Another instance, I take it, of the gentleman's logic. On one plank that he draws he undertakes to make a party issue of woman's suffrage and put a plank in it binding the party to it, and he writes another plank freeing them from the obligation.

Mr. MURDOCK (Beaver). Will I be permitted to ask a question?

Mr. ROBERTS. Yes, sir.

Mr. MURDOCK (Beaver). I am greatly to a disadvantage here this morning, for I am without a voice; still I will have to put up with what I have got and you will excuse me. Do we understand that we now enter into a two hours—that is, with the privilege of two hours and a half's speech from those that you got the time from?

Mr. ROBERTS. So much of the time as I may see proper to use.

Mr. MURDOCK (Beaver). I want to be informed. I will ask this committee if that is the way to proceed in business—

Mr. VAN HORNE. I arise to a point of order.

The CHAIRMAN. The gentleman has the time; it is unnecessary to interrupt him.

Mr. MURDOCK (Beaver). I would like the sense of the Convention upon this point.

The CHAIRMAN. The matter has already been before the house and passed upon.

Mr. MURDOCK (Beaver). He claims that he has so much time. With all due respect to him, is that the way for a man to get time? to go around among those that don't feel to say anything, and—

The CHAIRMAN. That is in accordance with the rules of the Convention.

Mr. KEARNS. Mr. Chairman, I wish this man would not be interrupted. He did not go around for time. He can have mine if he needs more.

Mr. THURMAN. Will the gentleman yield to me for a question—I am very sorry for this interruption, but I want to ask if the plank put in the democratic platform raised any issue between the parties? I am sorry to interrupt you, because I know that it puts the speaker to a disadvantage. But you had made the remark that the planks were inconsistent, the one which declares for a non-partisan constitutional convention, and the other which declared in favor of woman's suffrage. Now, I ask you if that which declared in favor of woman's suffrage put that question in issue at all? the republicans having already declared in favor of it.

Mr. ROBERTS. As between the parties?

Mr. THURMAN. As between the parties.

Mr. ROBERTS. There was an attempt to raise an issue between the republican party and the democratic party by the adoption of that plank, in consequence of the equivocal language in which the republican plank on that

subject was drafted, and our democratic friends undertook to cut the ground from under their feet by coming out in still bolder terms, and it was hoped that the issue of woman's suffrage would be raised by that plank.

I was going to remark, Mr. Chairman, however, that the position of the gentleman from Utah County and that which I occupy are different in some of their essential features, but in order to place myself in a proper light and to escape the odium that is sought to be attached to me by the remarks of the gentleman, I find it necessary to tell the circumstances in brief, under which I was nominated and elected to this Convention. I never expressed so much as the most distant wish to any man on earth to be a member of this Convention. The one person with whom I ever passed one word upon the subject before I was nominated was one of my colleagues now in this Convention, and he asked me my opinion in relation to who I thought ought to be nominated from our locality, for we both live neighbors. He expressed a wish I might be nominated or that he had said to some one that he wished that I would be nominated, to which I neither assented nor demurred, but after a few remarks I left him and the same evening took my departure from the Territory. When I returned it was October and the political fight in the campaign was on. The first gentleman that I met and conversed with upon the subject was another colleague of mine from the same county on this floor, and he informed me of my nomination before the convention and selection by the convention. He told me about the county convention and what was done there. He told me that there was a drawn plank or statement binding the delegates from that county to work for woman's suffrage, and he himself objected to be bound to work for it and vote for it. That expressed my sentiment. I too, sir, would have objected to be bound to

do so. There was nothing in the county platform of the county from which I came that bound me, as the gentleman says he is bound. As soon as I arrived in Salt Lake City, there was a wish expressed on the part of democratic leaders that I should accompany the honorable delegate in his tour through this Territory, and I immediately or almost immediately started on that tour. I held but two meetings in the county from which I came. Woman's suffrage was never mooted in either of them, so that I felt entirely free upon this subject. I was not mingling with my constituency, but was doing work for my party at large, and from the southern line of this Territory to the north of it, there was nothing said in all the meetings that I attended upon the subject of suffrage. So, indeed, it seemed not to be an issue anywhere. And I came to this Convention, unbound to work or vote for woman's suffrage, and no taint of dishonor can attach to my conduct here in speaking of this subject, but I do not plead special circumstances.

I met the proposition of the gentleman fairly in the face and I say to him and to a number of gentlemen (in which number, however, this gentleman shall not be included for what I am going to say) but I say to a number of gentlemen who do not believe in woman's suffrage and yet are going to vote for it, and against their convictions on the subject, thinking that they were bound by party pledges—I address myself to them, and for that matter to all of you whether you believe in woman's suffrage or not, if, to use an expression, from gentlemen from Salt Lake, here upon this floor, if the sober second thought is better than the first and that to pursue this issue and adopt woman's suffrage in the Constitution will endanger its life, what dishonor could attach to a man if he went back to his constituency and told them upon serious second thought he concluded it would be safer for the main

object that we all have in view to waive the granting of woman's suffrage? For the life of me I cannot see where dishonor attaches when men walk according to the best light of the judgment they possess. Men ought not to be too much afraid of inconsistency. Human judgment is so short-sighted that he is a peculiar man indeed who throughout his life shall commit no inconsistencies. I fear that such a man as that would be so afraid that he would do wrong that he would never do right. Now, sir, with these few explanations I am ready to proceed to the main argument of this question on its merits.

I lay down as a great principle underlying this whole subject this proposition: The elective franchise ought to be granted only to those individuals in a position to act independently, free from dictation. That is the great principle underlying the granting of the privilege of the elective franchise, and upon that idea rests the franchise in the United States. It is proposed to enfranchise women of twenty-one years of age and upwards. I submit that the overwhelming majority of that class of women in this Territory, and in the United States for that matter, are married women, and such, sir, is the structure of the family that women are not in a position to act independently without dictation. I wish to glance for a few moments at the structure of the family. When the great Creator said to woman, "Thy desire shall be unto thy husband and he shall rule over thee," and when the great apostle of the gentiles repeated the same great law by saying, "As Christ is the head of the church, so is the man the head of the woman," they were merely repeating a great law that existed as much in the nature of man and woman as it does in the revelation itself. That decree of the Almighty, sir, was not a part of the curse pronounced upon woman, but it was the expression of a great truth as

much in harmony with the nature of man and woman, as it was with the decree of God. I know, sir, for announcing this doctrine in such cool terms that I shall be anathematized perchance as a tyrant to women, a man unfeeling and tyrannical in his disposition towards the fair sex, but I shall trust to those who know me and my life not to take any serious consideration of that accusation, and I shall try to convince this Convention by an expression of my views on that subject, that I do not believe that leadership, headship, responsibility of precedency, is necessarily accompanied by tyranny and by oppression.

I rather like that answer which old rough Martin Luther made when he was asked the question, "How is it that the Almighty did not create woman out of some other bone than a rib?" Said he, "He did not make her out of a bone of his head, lest she should rule over him; he did not make her out of a bone of his foot, lest he should trample upon her; but he made her out of a rib from his side from under his arm that man might protect her." [Laughter.] I grant you, gentlemen, that I am not a polished man, I grew up untutored among these mountains of ours and doubtless in my nature and disposition partake somewhat of the roughness and ruggedness, and perchance my severe statement of the doctrine relating to the position of woman might be considered as the views of a semi-savage upon that subject, but I find that away across the Atlantic a man reared in the midst of all the refining influences of our civilization bears me out in this doctrine. Gentle Tennyson says on the subject:

But this is fixed as are the root of
earth and base of all,
Man for the field and woman for hearth,
Man for the sword and distaff she,
Man with the head and woman with
the heart,
Man to command and woman to obey,
All else confusion.

That, I take it, expresses, sir, the great doctrine entertained by the Anglo-Saxon people in relation to this subject. Now, I put this proposition to my friend, who will answer me in this debate, let him take his choice of these two propositions, either to deny that the elective franchise can only be held by those capable of acting independently, or else let him deny the position of woman in the family. If he undertakes to deny the first, let him remember that the wisdom of civilization has fixed it so, and if he takes exceptions to the position of woman in the family organization, let him remember that a wisdom greater than the wisdom even of enlightened nations fixed the status of woman in the family. [Applause.]

That the great majority of the women whom it is proposed to enfranchise, belong to the married class, cannot be denied.

Having laid down that doctrine, I submit it for the operation of the logic of the gentleman who is to follow. I shall indulge myself for a few moments in a consideration of the arguments that are supposed to sustain the necessity and the justice of granting suffrage to woman. In the Declaration of Independence, there is a phrase that has become historical, and which I may say is the hope of the nation, and that is this: Governments derive their just powers from the consent of the governed. And gentlemen might leap to the conclusion after reading that phrase that it is but a simple act of justice they should grant women the franchise that they might give expression to their consent in the government. Gentlemen make too wide an application of this doctrine. If they will pause a moment and consider it somewhat in detail they will find that direct consent which supports government in these United States is composed of the minority, and I might almost say a small minority. There are excepted out of those who give their consent to be governed, of course, all

minors. The wisdom of our statesmen up to the present day has excluded all women. In several of the states the wisdom of our statesmen have excluded those who hold no property. In other states that same wisdom has excluded all those who can not read or write, and take these together, they constitute the majority, and direct consent for the support of the government is only given by the minority of the people governed.

The argument of the gentleman upon this, built upon this phrase found in the Declaration of Independence, would convert the elective franchise into a right, not a privilege. I take it, sir, that neither democrats nor republicans are prepared to contend for that. It is conceded by all men informed upon the subject that the elective franchise is a privilege granted by government and not an inherent right. In order to distinguish the difference between it as a right and a privilege, let me invite your attention to a contrast of a privilege and right. Our committee on declaration of rights told us that all men had the right to live, the right of life, and the right to liberty, and these were inalienable inherent rights. Our committee, reporting on elections and suffrage, provided in their article that no property qualification shall be required for any person to vote, but that is made a provision in some of the states, and in section 10 they say, "no person shall have the right to vote who shall not be able to read the Constitution of the United States." Now, let us try it. Suppose you were to say in your declaration of rights, "No person shall have the right to life, but those who can read the Constitution of the United States. No person shall have the right to hold property but that can read the Constitution of the United States." This is elementary, and I beg pardon of the committee for introducing it, and yet Mr. Chairman, after all I don't know but a little elementary doctrine, even if I am

to judge from the discussion or argument of the gentlemen on the other side, would be a good thing to indulge in. It clearly exhibits the difference between a right and a privilege, and governments have always held the power to enfranchise those whom they would, and it is not the inherent right and cannot be claimed upon that ground. On this subject I presume, I will have to turn lawyer and refer you to Cooley.

(Reads):

But in every state, although persons are under the protection of the government and obliged to conform their actions to its laws, there are some who are altogether excluded from participation in the government and are compelled to submit to be ruled by an authority in the creation of which they had no choice. This patent fact suggests the inquiry, who are the people in whom is vested the sovereignty of the state? Since it is evident that they cannot include the whole population and that the maxim that the government rests upon the consent of the governed is in practice subject to exceptions (and I have noted some of these exceptions) as a practical fact, the sovereignty is vested in those persons who by the constitution of the state are allowed to exercise the elective franchise.

I might refer also to another consent negatively expressed and only tacit in its expression, but nevertheless real on that account, and that is the tacit consent which comes from refraining from revolution that overturns governments, and that consent thus expressed upholds governments no less than that direct expression that comes from the exercise of franchise.

I next come to the proposition upon which gentlemen built up, as I think and as they suppose, their strongest argument: "No taxation without representation."

The committee refers to this in their report, that they have kept in mind and therefore it is presumed, since there are some women who hold property and have property in their own right, that when you deny representation to them you are violating the great principle

upon which our own freedom was won. But let us subject it to an analysis and see how much of it is good and how much of it is worthless. I think the gentlemen will agree with me that the great bulk of our women population are only property owners in connection with their husbands. They have no property of their own separate and apart from their joint ownership in property with him. And you shall single out those who are unmarried and are property owners, while the number might be considerable, in comparison with the great mass of women that it is proposed to enfranchise, that number is insignificant. I hold to the doctrine that each man who is married, in the exercise of his privilege of suffrage, is the representative in that act, not only of himself, but of the little group with which he is connected. He acts for his family, and gentlemen must not be carried away with the idea that they act independently of the influence of the wife in that case either. It may suit the fancy of man, it may be accorded by the shrewdness of woman to let him think that that is the case, but as a matter of fact, it is not the case. I think before I get through I shall be able to show you that women already have an influence in politics, and though indirect, it is none the less real, and that when a man who is married casts his vote, it is the expression of the mentality of the group with whom he is connected. The hobo and the bachelor may each for himself cast his ballot with no other consideration than how it affects him; but, gentlemen, the man who is a head of the family does not do it and he cannot do it, because there stands by his side a counsellor and he cannot escape hearing her. [Laughter.]

I want to prove that I do not stand alone in this proposition. In England, Scotland and Wales, they have in some more or less modified form, suffrage—municipal or school election suffrage,

but in those countries it is confined to a single woman of voting age, and to widows. Why do they leave out all the married women? Because the statesmen of Great Britain well know that the married women of England are not unrepresented either in taxation or anything else, but they grant it to a single woman and to widows. In Sweden, the modified form of woman's suffrage is held exactly on the same principle, only they extend it a little further in Sweden than they do in Great Britain. They permit them to vote for the lords or members of the house of lords indirectly. In Russia to the extent that franchise is granted to women in the elections that take place about local matters, it is confined to women who are the heads of households, and why? Why, for the same reason for those who are wives have already representation; and sir, that practice follows the Russian—the self governing town, wherever it is planted, even in Asiatic Russia. Again, in Italy, widows vote even for members of parliament. Why don't they extend it also to married women? For the reason that these countries recognize the doctrine that I have laid down upon this floor, that the married women need no other representation than that which comes indirectly through the head of the family.

Now, let us consider those who have no husbands, in comparison with the female population on whom it is proposed to confer the franchise. The unmarried, especially those among them that are property owners, form, as I have already stated, an insignificant minority, yet considerable in number, I grant you, and their right to be represented ought to be considered. The question so far as the principle of taxation without representation is concerned, is narrowed down in my opinion to this: That if all gentlemen want to do is to recognize the great principle of no taxation without representation, all that they have to do is to give the

franchise to those who are not already represented in this matter, but even this should be well considered before it is conceded. I want to ask you what discrimination is made against woman in this matter of taxation? Do men fix one schedule of taxation for women, and another schedule of taxation for men property owners? Don't the burdens of taxation rest upon the man and woman alike? Is there any conflict in the interest of property owners, whether man or woman? Do not men who pay taxes contend that they shall be reduced already to a minimum? Could it be hoped that if the women regulated the taxes they would be somewhat less than they are now? I grant you if there was any hope for that, the temptation to grant them the privilege would be considerable. But, sir, there is no hope that such a result can be obtained.

Now, I want to consider the question as to what motives prompt the extension of franchise to those who are unfranchised. What principle has guided statesmen in the past on that proposition? Has it been mental equality? Has it been based upon sentiment or necessity, through all the reforms on this question in the history of the race of which we form a part? When the barons met King John and demanded franchisement at his hands, was it based upon the plea that they were mentally equal with him? God save the mark! Let us not think the barons of England were not superior mentally to that half dried mummy, King John. Gentlemen, it was not a question of mental equality, but it was in the instance I have referred to and remains to-day one of necessity and one of protection. When in the 17th century the commons of England made their famous petition of right and demanded franchisement, was it on the ground that they were mentally equal with those already in possession of the franchise? Why, no, but it was to protect

themselves against enforced loans and benevolence to the king that they wanted enfranchisement, that it could not without their consent, compel them to loan money to the crown. Now, sir, I will not take up the time of this committee to review the franchise reform in England in 1830 and in 1832, nor the later agitation on the same subject in 1867, nor the same agitation in 1872; but if gentlemen will take trouble to look into those cases they will find in every instance that it was placed upon the ground of necessity, that one class might protect itself from the oppression and unfairness of another class. We have an instance of it right here in our own country, when the shackles were struck from the limbs of three million slaves and they were given equal political franchise with their former masters. Was that upon the ground of mental equality—a sentiment that these black people should have equal franchisement with their former masters? No, it was not; the franchise was given to them as a means of protection that they might protect themselves against their former masters. So, throughout the history of this question. And now, since it has been upon this principle that franchise has ever been extended, I want to ask my logical friends what reason is there here for extending it to woman? Have we in our conduct been so bad to women that mothers, that daughters, that wives, and sisters, have need to protect themselves against us? Will you answer me upon the question of necessity?

Gentlemen argue this question upon the ground that a man must be the inherent foe of woman, and we hear declamations against clanking chains, oppressing tyranny, until really if this goes on every woman that one meets he will look for the gyves upon her wrists and the chains attached to her foot. Gentlemen, it is all solemn mockery. There is no such a thing as a

conflict of interest between man and woman that demands any such action as is here proposed? Upon this point I read to you the words of a thoughtful woman, published in the Atlanta Constitution, February 16th. The quotation is from Mrs. Atkinson, wife of the governor of Georgia:

I have been impressed with the fact that many of those who sympathize with the suffrage movement discuss it in a spirit which is neither becoming to them nor helpful to their cause. It is folly to try to make sensible people believe that women are white slaves, and men are their masters. It is untrue and unfair to allude to men as though they were the oppressors of women and are wilfully and maliciously depriving them of their rights.

My belief is, and my experience confirms this belief, that men and women are not natural enemies, but are natural friends, and in fact are the best of friends.

This question by those advocating woman's suffrage is misstated when they ask for equal rights, for women exercise a great number of rights, a few of which are unequal in responsibility by any that men hold. Men and women may have equal rights and not yet possess the same rights.

Woman are exempt from poll tax, from liabilities to work upon the public roads, from jury duty, and from military service, while the law guarantees them equal rights to own and hold property—in many respects their property rights are superior to those of men.

There may be some duties for which both sexes are equally well fitted; if the right to vote and to become participants in political affairs be one of these, then I would suggest to those who advocate this that they talk less to the man and give the women some good reason why they should vote, for we cannot believe that man is woman's oppressor or that there is any spirit of envious rivalry between the sexes.

While I am upon this subject, I want to refer to something that is quite unusual in those who pursue the argument in favor of woman's suffrage. It is a wonder that this has not been introduced on this floor, and it is quite possible, Mr. Chairman, that it will be before we get through. I cannot define what will be the course of argument of gentlemen who are to follow me,

but it is not unusual to say that men have relegated women to the political association of idiots, insane, and convicts.

At the recent woman's suffrage meeting, held in the south, a Miss Colby, of Nebraska and Washington, arose before the convention. I quote from the despatch describing the matter:

She held up a photograph and said that it represented woman and her political peers. In the center was the picture of Miss Francis Willard, in the upper left hand corner was an idiot, in the upper right hand corner a convict, in the lower left hand corner a painted Indian, in the lower right hand corner a lunatic.

I ask gentlemen and woman suffragists is that the price, the value that American manhood has fixed upon woman? It is an insult to the generous generation of American men who now sleep in their graves to say that they have relegated woman to any such condition as that, or make it possible for odious comparisons of the kind to be truthfully and rightfully made. Nowhere on this earth, where God's sun shines, has woman been so enshrined and sainted as she has been in the hearts of American manhood. [Applause]. It is an outrage to make such arguments as that. This demand for woman's suffrage is not new. Why it is old. Away back two thousand years ago when Plato said, "In the administration of a state neither woman, as a woman, nor man, as a man, has any political functions but the gifts are equally diffused in both sexes." From the time that remark was made until now, I repeat this demand for suffrage for woman has been made. Why has it not been granted? Surely there must have been some reason why it has not been granted. Manhood is just. In the main they seek to do the right thing. They have stricken down slavery in every Christian land almost. Why is it that they have not granted this continuous demand? Certainly

there must have been good reasons and I briefly state a few of them, because it has been generally accepted that women had been actually represented in governments by their husbands, fathers or sons, since there is no conflict of interests, the representation, though indirect, has been sufficient. Second, because of the position of women in the family fixed by wisdom, greater even than that of the wisdom of our ancestors. She is not in a position to act independently as all ought to do who have the elective franchise. The main reason why they have been denied it, however, is to be found in the universal belief that there is a difference in the sphere of man and woman, as there is in their nature. The time honored theory was expressed by one of our poets who said:

For contemplation he and valor formed,
For softness she and sweet attractive
grace,
He for God alone and she for God in
him.

That has been the theory of the relationship of man and woman. Man's nature and disposition fit him to be the protector of woman, and it has been so from the earliest periods of recorded time until now. In barbarous times and ages, it was the strong right hand of man that protected woman; through wisdom's ways they learned to contrive a new form of protection as it is to be seen in government; the right still went with that new device, that its management, its control, the exercise of its powers, should still be with man.

Notwithstanding the fear of bayonets and bullets expressed and anticipated by my friend from Salt Lake, who by the way was kind enough to sing such a beautiful euphonism last evening, laying me quietly away in the fond embrace of death amid the sunbeams of the setting sun and mingling beams from woman's eyes—and I confess that the gentleman was a success at that—I was walking around in a sort of a dazed condition

until the rude thump of the chairman's gavel aroused me from the sweet reverie and I came to with an exclamation, and I still alive. Notwithstanding his attempted anticipation of this part of the argument, it is true that at the last governments find their basis upon force, and whenever the shock of conflict comes the women are relegated to the rear and men step to the front, still the protectors of home and woman. Though woman is in the rear the consciousness in the heart of man that he is contending for that woman and that home lends potency to his forces that he could not be deprived from her were she an Amazon and armed cap-a-pie and marching by his side. [Applause.]

And there is some truth in the doctrine that ballots do not amount to much unless bayonets are behind them, and good manly hearts to bear the bayonets. I now come to the question of equality. I wish to say in the presence of these ladies that this Convention about extending suffrage to them is not properly based upon equality. It is not a question of superiority or equality. Whenever that question is raised I yield the palm to woman. I join the sentiment of my friend from Salt Lake on my right, that in the moral virtues, in everything that goes to soften the hard conditions of humanity, in everything that teaches that which is beautiful and best in nature or in man, woman is the superior of man. Just as I think our sister will yield the palm to physical strength in man, there is no disparagement meant to woman when I say that man is better fitted to govern men than she, no more than there is disparagement against man when we say that in the softer and more refining graces woman is his superior. I can conceive of two things being different and yet in some things and in general we may say equal. For illustration, I may say of the two greatest men of England to-day or this generation of Englishmen, that Glad-

stone and Tennyson are equals. That does not mean that because one of them is at home with Arthur's round table and tells us a beautiful tale of the Idyls of the King, and because Gladstone cannot do that, that Gladstone is therefore not the equal of Tennyson. I imagine, sir, that the poet would find himself much confused if he undertook to deal with an English budget. He could not control the house of commons and sway the reasons of men to support that which is best and just for the government. They are different in their spheres, but equal as to being men.

And so it is with man and woman, different in their dispositions, different in their tastes, different in their constitutions, but equal doubtless as to their abilities, equal as to their mentality. So I mean no disparagement to the women of this Territory, when I express the opinion that they ought not to be enfranchised. I favor equal educational advantages for men and women, though I would have the women apply the knowledge that is acquired to building up a higher excellence in the proper development of their lives. Then, again, I am not unmindful of the power and influence of women. Why, sir, I am well aware that if we men were left alone, we would soon sink into a state of barbarism. Some portion of my life has been spent in mining camps in this Territory, and I know how debased men can become, when deprived of the society of women. I place the value of woman upon a higher pinnacle, and there is not a suffragist among you all that has a higher opinion of her and of her influence than I myself entertain. But let me say that the influence of woman, as it operates upon me never came from the rostrum, it never came from the pulpit, with woman in it, it never came from the lecturer's platform, with woman speaking; it comes from the fireside, it comes from the blessed asso-

ciation with mothers, of sisters, of wives, of daughters, not as democrats or republicans. [Applause.]

I am happy to find that I have some one to help me out in those views. I quote the words of a man than whom there is not another in the United States who gives more consideration to public questions or whose intelligence and wide education qualify him to better express an opinion, and I refer to his excellency Cardinal Gibbons:

Christian wives and mothers, I have said you are the queens of the domestic kingdom. If you would retain that empire, shun the political arena, avoid the rostrum, beware of unsexing yourselves. If you become embroiled in political agitation the queenly aureola that encircles your brow will fade away and the reverence that is paid you will disappear. If you have the vain ambition of reigning in public life, your domestic empire will be at an end.

It is that which I fear, if we drag women into the political arena in this Territory. I know, sir, that the effect of that is denied. And whenever gentlemen undertake to deny that that will be the effect they point us to Wyoming. I paid my passing respects to the state of Wyoming yesterday. I am not, however, altogether through with the reference to that matter. I asked yesterday why such states as Virginia and New York and those older states, empires within themselves, were not cited. Why not cite even Kentucky? Pardon me, I did not mean "even," because Kentucky, sir, shall not by any manner of means lose its comparison with any of the states that compose this American Union. It was a slip of the tongue to put it in that form. [Laughter.]

Aye, sir, I will quote you even the very Ashland district where woman exercised an influence, although she did not possess the ballot, and the result demonstrated the truth that she had no need of it when there is a question of hurling down the steps of his own

ambition a man who has outraged every public sentiment of morality.

I trust, sir, that in the future of Utah, whenever an issue of that kind shall arise, that the women of Utah, acting like the women of Ashland district, shall come to the rescue and acquit themselves as well, and they will not need the ballot to do it either, even as these women did not need the ballot to do it. So, I suggest to my friends Kentucky versus Wyoming, as a model for Utah. I reaffirm the effect of public life and especially of political public life upon woman, and propose to prove it. I read from a dispatch in Salt Lake Sunday's Herald of August 6th. The scene that it describes occurred on August 5th, 1893:

The board of lady managers indulged in another decidedly unpleasant wrangle to-day. It lasted nearly two hours, and during that time many unpleasant things were said, and many ladies gave vent to their feelings. Mrs. Ball, of Delaware, secretary of the committee on awards, made a long complaint against Mrs. Mederith, chairman of the committee; among other things she charged that when Mrs. Mederith was unable to attend a session of the committee she sent her sister to act as overseer, when her sister had not a right to a seat in the committee. At frequent intervals during Mrs. Ball's remarks there were loud exclamations of surprise from the audience, but the sensation came when in closing she characterized Mrs. Mederith as an arrogant, malicious, ungenerous, and vindictive woman.

Before she had finished half the women in the house were on their feet, many shrieking wildly, others hissed, and others stamped their feet. Mrs. Palmer used her gavel viciously and called in vain for order, but the excited women paid no attention. "Take that back," yelled a large woman. "Put her out," screamed another, and so on, and pandemonium reigned supreme. During all the uproar Mrs. Ball stood perfectly calm, smiling serenely. When at length order was restored, she repeated the sentence. Then the uproar was renewed and continued for sometime.

Mrs. Ball finally took her seat; in an instant Mrs. Mederith was on her feet. "So far as any difference that exists between Mrs. Ball and myself is concerned," she said, "we can settle it ourselves, but when she says I sent my sis-

ter to preside over that committee, she tells that which is absolutely false." Here Mrs. Mederith broke down and began to sob hysterically.

Then came another scene of wild confusion and everybody wanted to talk at once. Motions were made by the dozen, but nothing was done until Mrs. Palmer, who was pale with excitement, succeeded in restoring order. Then Mrs. Ball got the floor again and said she would retract the word "malicious."

A Chicago paper in an editorial comment on the above said:

Upon the board of lady managers at the fair are a number of women of well known ability, culture, and refinement. Why they should stay there is fast becoming a mystery.

Yesterday's disgraceful proceedings of the board are enough to disgust the most gallant defender of the gentler sex. If the board has nothing better to do than to fight and wrangle and indulge in language which is never tolerated in parliamentary proceedings under any circumstances, in heaven's name, let it adjourn and drop out of public sight.

It is a humiliating statement to make, but it is a fact, that the recent proceedings of the board of lady managers have been a burning disgrace to the fair, to Chicago and to American womanhood in general.

If the members of that nondescript body hope to save the slightest vestige of public respect and esteem, they must about face and start in the opposite direction in double quick time.

My point is this in referring to this matter: These ladies were ladies of the highest talent, of great refinement, and I put this question to you, if women of that character can indulge in scenes of this kind how long can they retain the respect that is properly due to woman?

Mr. THURMAN. Don't men ordinarily have rows?

Mr. ROBERTS. No.

Mr. THURMAN. What about the Indiana legislature the other day?

Mr. ROBERTS. Excuse me, I did not quite answer your question, or did not catch the meaning of it for the moment. Men do have rows, they act unseemly, but do we want to put women in a position where they will do likewise? [Applause.]

I read now a dispatch from the Chicago Herald, dated July 24th:

A rival of Colorado's governor has been found. Mrs. Eli Potter, who ran for mayor of Kansas City, Kansas, at last spring's election, is on the streets to-night boasting that she will capture the Kansas republican state convention in September, if she has to wade in blood up to her ears. Mrs. Potter's ire was aroused at a meeting of the equal suffrage association this afternoon. One faction wanted to send a republican delegation to work for suffrage planks at the republican convention, a democratic delegation to the democratic convention, and so on through as many conventions as Kansas sees fit to have. The other faction favored a non-partisan delegation, and it triumphed.

After the meeting Mrs. McKee, the president, was accused by Mrs. Potter of working suffrage associations in the interests of the republican party. Mrs. McKee said that Mrs. Potter was a liar, for several minutes there was the biggest kind of a row of words, and what looked like a free fight was only averted by some of the cooler heads. To-night Mrs. Potter is laying wires to capture the convention.

Now, I shall only trouble the committee with another instance of how woman's suffrage works and the agitation that attends it. This is a dispatch from Denver, January 17th:

The desks of Mrs. Clara Cressingham, Mrs. Carrie Clyde Holly, Mrs. Frances Klock, members of the assembly, were ornamented to-day with magnificent bouquets of roses bearing the card of United States Senator Wolcott. The three ladies had yesterday voted for the senator's re-election. In seconding Wolcott's nomination, Mrs. Holly had said, Senator Wolcott is in full sympathy with the cause of equal suffrage. This statement was hissed by several women in the ladies' gallery, who also uttered derisive cries and groans. The men in the crowded galleries applauded and laughed. The sergeant-at-arms shook his hand at the ladies in the gallery and shouted, "stop that." Mrs. Holly continued, and the other two assembly women also gave their reasons for voting for Wolcott.

A delegation of three ladies representing the W. C. T. U. waited on the senate Tuesday, and secured the introduction of a resolution demanding that no one should be elected to the United States senate whose private life was subject to criticism. Senator Felker took umbrage

at this and spoke his mind freely. Yesterday, while seconding the nomination of Wolcott he referred to these ladies as hatchet-faced individuals, adding a remark that is unfit for publication. The remark was taken as a personal insult by the W. C. T. U. women. To-day Felker said he should not have called them hatchet-faced as battle-ax would have been a better term. He added the still more vituperative attack upon the W. C. T. U. which was resented by other senators. For more than two hours there was a wordy war. Senator Fulton declared that Felker ought to be kicked out of the state capitol and the matter was only ended when a disgusted senator demanded an adjournment.

Now, I join in the sentiment that expresses the idea that Senator Felker ought to have been kicked out of the capitol and the conduct of the gentlemen in the galleries was also unbecoming, I grant you. But why submit women to come into a position where they challenge such insults as these? [Applause.]

I told the ladies of this Territory that their best friends are not those who would bring them into a condition where insults of this character are liable to be heaped upon them, and it is impossible to choke down these senseless, thoughtless men who thus insult women; but if women insist on going into a bear pit of political strife, may it not be expected that these scenes of which I have been speaking are liable to occur? Therefore, in the name of woman, and in the name of the great silent mass of women, retired in their own homes, and in their private lives, who do not seek for representation upon this floor, I say that suffrage ought not to be granted. [Applause.]

Gentlemen who are suffragists suppose they absorb all the gallantry towards the opposite sex. Why, ladies in this house, let me tell you what has happened, sotto voce. You remember the day when we had an invasion of ladies interested in the question of suffrage, and one suffragist, a member of this Convention and an ardent suffragist at that, said, "If this goes on, from the

appearance of these women, if we have a few more invasions I will be with Roberts." He remarked to another man, "have you noticed these women?" and then he remarks, "They are neither man nor woman, they are neither brute nor human, they are ghouls." I am not a suffragist, but no man can say that I ever made a remark like that about women. I repeat it to the women of this Territory that if they could but listen to the jests and jibes of those who even pretend for suffrage, whether their cheeks are bloomed with youth or sunken and pallid with age, they will blush for very shame. [Applause.]

The time for this committee to rise is drawing to a close. I think I can finish my remarks by the time it should close. I shall not exceed the hour of twelve, at least by more than three or four minutes, and that will finish my speech. I pray the committee to give me that indulgence.

What is to be gained by admitting women to be franchised? "Oh, they will improve our laws. They will elect men to make laws that will make better laws." We have good laws. The laws are all right. Every vice that can be cured by legislative enactment is already provided for. The mischief is you cannot make men moral any more than you can make them brave, any more than you can make them generous, any more than you can make them noble, by legislative enactment. If we could, I would have all the men brave as I would have all women fair. But it cannot be done. "Well, then, if we cannot fix the laws to make better laws we at least could provide for a better administration of laws by electing better men." Could you do it? Isn't our country really governed by party? And if you admit the women, there will be affiliating with the republicans and with the democrats, and about all it would amount to as affecting the kind of men that are chosen is, the number of votes cast for them might be just

a little larger and that is all there is of it. These good women like the good men in these parties would have to support the party nominee, or else throw away their ballot, and that is all there is of it. They can no more effect a moral reform through the ballot and the exercise of suffrage than they can empty the Atlantic ocean with a pint cup. And had they thought of this, that you not only enfranchised the good women, but you enfranchise the bad? "Oh, yes, but the good women preponderate." I grant you that, they do; but would it not operate much as it operated in Chicago recently? I read the statement of it, or for brevity, will merely state it. In Chicago women have the municipal franchise. Last November 35,000 Chicago women were registered and out of the number only 8,000 voted. Of these 8,000 not less than 5,000 were disgusted with their experience and they will never vote again. What might be termed the "silk stocking" element registered with a mighty flourish of trumpets, but it quailed when the hour for voting arrived. The polls were uninviting and the judges and clerks were inclined to grow hilarious at the appearance of the women. Then the ballots puzzled them wonderfully; they voted every way but the right way. And so many were the blunders that a big percentage of their vote was thrown out. The voting of the women was confined to university trustees. The women who did vote went to the polls in pairs, braved the tobacco smoke and the ward politicians, and left their ballots. Very few were accompanied by men and it was quite evident that the husbands who encouraged their wives to dabble in politics were mighty scarce.

Now, the point of argument in referring to this item is this: Grant you that the great majority of women are good women, but their sensibility of delicacy will keep them away in the main from the polls, while the brazen,

the element that is under control of the managers and runners of saloons, will be the ones to brave the ward politicians, wade through the smoke and cast their ballot. The refined wife and mother will not so much as put her foot in the filthy stream. "Oh, but woman will purify politics." Many a time I have stood on the banks of the Mississippi River above St. Louis, where the turbulent muddy Missouri comes tumbling into the placid clear waters of the Mississippi. What is the effect? Is the muddy stream made clear and beautiful and sparkling? Now, that is not the effect; they roll and tumble side by side for a few miles and then the distinction is lost in one muddy stream. "Oh, but the stream was not quite so muddy as it was before the clear stream entered it?" Grant you that. Neither was the clear stream ever sparkling and clear again. [Applause.]

One quotation more and that from a woman, Mrs Robinson Watson, in the Arena, for February, 1895:

The glory of womanhood has been her purity, her superiority to man, in the possession of a higher moral sense and standard. Why risk this precious certainty for a doubtful good, when the superiority claimed and admitted by all is a result of protection from the temptations which this doubtful good would entail? Unmolested, her instincts and feelings would undeniably lead in the right direction. As a class her predilections would be upward tending, but vest her with a power of marketable value, power of immediate importance and offering a motive to man, and how many weak women would be dominated by a stronger nature? There has been as yet no reason for nor desire to corrupt her, but while many would forever and all time remain staunch defenders of rights and principle, how many more would remain neutral, or indifferent, and how many more still in the lower illiterate classes would simply esteem the ballot for its pecuniary possibilities.

Just one more brief extract from her remarks:

Suppose suffrage to be secure, what would follow in its trail? Giving the matter casual consideration only, one

thinks that the great centers of wrongdoing would be purified, that woman's presence in great political gatherings, her influence in legislative halls, her ballots against the crying evils of the day, and her united and legalized effort for the salvation of the young would work such reform as to thrill and regenerate the world from center to circumference. But look deeper. In the home, the source of all good to the state, would surely come sooner or later discussions, diversions and dissension. There would inevitably be two sides and these in many instances hotly contested. It is an old saying that a man and his wife ought not to play chess. Surely it is a graver question when they would play at the dangerous game of politics.

Now, gentlemen, in conclusion look at the effects of this in the family. Shall we not leave some refuge for man in this world, where he can come out of the strife and bitterness that is oft engendered in business, professional and political life. I call on you as men forming a new State Constitution, beware how you deal with this question and lay not the foundation for wrecking domestic peace. Leave man, I say, some asylum, some refuge, from the storms and cares of life. Do this, and then, through plot and counterplot, through gain and loss, through glory and disgrace, along the planes where discord rears eternal babel, the gentle stream of human happiness may glide on. And I pray you go back to caucus, think this question over, do the right as it is in your hearts and as God gives you the right to see it. I thank you for your indulgence. [Applause.]

Mr. IVINS. Mr. Chairman, I wish before the committee shall arise to speak just one moment on a question of personal privilege. When I came into the assembly this morning, it was my intention to propose the motion which I have offered. I was not at that time aware that my colleague from Davis intended to speak. Just before we went into committee of the whole I incidentally heard him whisper to my friend on my left that he expected to open the debate. I immediately leaned over and said to

him that I wished to make a motion before the debate was opened. And I resent the imputation that I came to him with a deceptive smile, asking him to waive a portion of his time to me. I only claimed what was my right upon the floor of this house, and I submit that I have not wearied its members. I have no desire to cut off debate, to stop this discussion. I am a lover of oratory, argument pleases me, but I do submit that when this question has been discussed in the caucuses of both parties and has been determined almost unanimously that the section will be passed, it is not dignified for this body of men to continue day after day and day after day to sit here and discuss it.

Mr. VARIAN. Mr. Chairman, I had not intended to speak upon this question, but the debate has taken a wide and very extended form, and inasmuch as it is now probable that a vote upon the question will not be reached this afternoon, and as I shall be compelled to be absent from the Convention tomorrow, at least half of the day, I desire with the permission of the committee to take the floor now in the hope that I may be permitted to resume it at two o'clock when the committee shall resume its session.

The CHAIRMAN. Unless some member of the committee objects the chairman will recognize you at two o'clock.

Mr. VARIAN. I put it in solely upon the ground that I will not be able to be here tomorrow, certainly not in the forenoon, when I anticipate a vote will be reached and under the circumstances, particularly as certain things have been said, for my own satisfaction I desire to announce my position on this question.

The committee then took recess until two o'clock.

After recess.

The committee of the whole reassembled and the following proceedings were had:

Mr. ROBERTS. Mr. Chairman, I arise

to a question of personal privilege. Some remarks which I made in the heat of discussion this morning were perhaps stronger than I would wish in referring to one of my colleagues, Mr. Ivins. I would not wish to lose a friend nor do him any injustice, and I therefore personally apologize to Mr. Ivins for anything offensive in my remarks.

Mr. VARIAN. Mr. Chairman and gentlemen of the committee, rarely have I had an opportunity of listening to such an oratorical effort or efforts as has been my pleasure to hear during yesterday and to-day. None of us on the floor of this Convention or elsewhere in the Territory, I apprehend, can hope to compete with my distinguished friend from Davis County, on his chosen field. With oratory and rhetoric and all the attendant graces of elocution, he has charmed this audience during two long sustained efforts. Oratory, however, is not always argument. Rhetoric not always logic. Both may be and are used to embellish argument, whether for the good or for the evil. In what I have to say, I do not propose discussing the merits of this proposition before the committee. I propose directing my attention to what I conceive to be faulty logic, wrong and unpermissible argument, to move the minds and influence the votes of the delegates of the people in this Convention assembled. With the unfortunate conditions which we observe are agitating and disturbing our friends on the minority side of the house, we need not concern ourselves. If it be true that my distinguished friend stands now under the shadow of political death, if the grave which he has suggested may possibly be dug for him is now being projected in the minds of his colleagues, perhaps we, as republicans, may be permitted to express the hope that it will be deep and wide and broad enough to include all of the democratic party for all time. [Laughter.]

And in saying that, I mean it in an

entirely impersonal sense, of course. How they may escape from the dilemma in which they find themselves precipitated in this Convention by the act of their most distinguished leader and champion, the one of all the hosts of democratic orators and leaders who was selected to help carry the standard of democracy from Logan to St. George, side by side with their delegate in Congress, breaking down and through one of the most important and one of the strongest planks upon which he and the other candidates of that party stood at the last election, need not concern us. Nor, sir, would I attempt to take the time of this Convention or to offer any suggestion upon the matter under consideration had it not been for the fact that in the first argument made by the gentleman, waiving as he did the question of the merits, by imputation and inference at least, and carried to this committee and to the people that there were men here who were base and cowardly enough to vote against the honest convictions of their judgments, and were not manly and brave enough to rise above a mere partisan or political plane and, like him, follow the guiding star of duty. I am free to say—and I say it not because it is of any importance to this Convention or to the people of Utah, but because it is important to me to say it in the line of argument that I shall pursue—that I have not yet reached in my own mind a conclusion satisfactory to myself upon this question of woman's suffrage. I have no convictions strong enough to move me were I free to act to change the policy of government and vote to extend the franchise. If I considered the question an open one here upon which the people had not spoken, I should probably vote, as I think every man in public life as a rule does vote, against a proposition as to which he is not thoroughly convinced of the propriety and benefit. But, sir, as I understand it, we are not confronted with that question;

if there is anything in popular government, if there is anything in the thought that the people are the source of all political government and power, it seems to me that the question now before this committee and this Convention has become adjudicated. It has passed from the realm of argument into the domain of final judgment, and the delegates to this Constitutional Convention elected are but the executors to carry out and record the will of the people.

Let us see how this stands upon principle. Let us see where and to whither we will be drifted, if we follow my distinguished friend from Davis County along the line of thought indicated by him on yesterday. He will concede to me that the people of the commonwealth have in themselves as a whole the power and the right to shape and control all legislation of every kind. He will concede to me that the manifestation of the will of the people is made in certain ways, and that it is determined by the consensus of opinion of the majority of the people. It is the only way in which it can maintain and perpetuate free institutions. When you depart from it, aye, in the slightest degree, you are on the road to tyranny of some kind. It has been developed by the experience of the American people during a century of their natural life that this government a majority government, a people's government, can be best administered through the medium of political parties. These parties do not represent all of the individual views of the members thereof, but they come as nearly representing the general view of the great mass of the people forming the party as it is possible for them to do. The expressions of the people belonging to political parties are given through the medium of conventions. They are written in what are called platforms and the candidates, so far as principles are concerned, have no more to do with the modifying, the

altering or the revoking of such principles than the members of the opposite political party. This much, generally, Mr. Chairman.

Let us for a moment, look at the situation now, not as it appears to my friend, the gentleman from Davis County, but as it appears to me. Commencing with the times when the conditions were not changed, up to 1892, there was a strong minority element in this Territory formed into a quasi political party of which I was a member, one of the fundamental principles of the creed of which was opposition to statehood. It was not until 1892, when the American people, speaking through both of the great political parties, announced their approval of division upon party lines, that the strength of this argument was weakened in the least. But at Chicago, and at Minneapolis, such action was taken as clearly indicated to him who cared to ascertain the fact that in the very near future the way was to be paved for the admission of this Territory into the Union, and from that time on, by ones and twos and dozens, and fifties, and hundreds, men fell away from that organization and aligned themselves on either side with the great political organizations of this country. In the fall of that year I resumed my place in the ranks of the republican party. I was not deceived, gentlemen. I do not believe that any man was deceived. I knew that it meant statehood, it could have no other meaning; there could be no other purpose or object in view. Under our form of government of necessity statehood must come when the proper conditions should exist. Neither was I deceived for a moment by any special thought that any other control would be exercised in the formulating of the organic law or the enactment of statutes than that exercised everywhere in this Union by a majority of the people.

In 1893, in convention assembled in the theater in this city, the liberal party

dissolved. Before it dissolved, it enacted a resolution that it was the sense of the party in convention assembled that Utah should be admitted into the Union of states. I assume that no member on the floor of that convention, that no adherent to that party, for a moment supposed that Utah was to be admitted with a constitution in any degree different from that desired by a majority of the people. We were told on yesterday that there were thousands of voters, who, if the article on suffrage was incorporated in the Constitution, would vote against it. From the standpoint that I take in the matter it is quite important to ascertain whether that be so or not, but it occurred to me then as it occurs to me now, that if that were so certainly these thousands of men so unalterably opposed to statehood, if it should include a provision for woman's suffrage, would have rallied around the standard, that they would have erected a new standard at least, that they would have written upon the history of the times their protest and emphasized it by their votes in the election when they had an opportunity to do so. They went off into two great political parties. From that day until this, no public expression has been given from the stump or through the medium of the press upon this question in the slightest degree indicating that the sentiment and temper of that portion of our people were as indicated. They knew, sir, as I knew, that it would be impossible for a minority to write their views in the Constitution of the State of Utah. They knew and they demanded that statehood should come, and so it was in September of last year, the republican party met in convention at Provo and wrote a plank in its platform "we favor equal suffrage," and the delegates came back from that convention—a convention comprising a very large minority of members of the old liberal party, or perhaps I should say, a very respectable minority in numbers. They

went to work for the ticket. No expression of the kind we have heard here on this floor came from a single one of them so far as I know. The county conventions followed in different parts of the Territory. The constitutional nominating conventions followed. So far as I know there was not a word of dissent, not a word of protest in public or in private. We took our nominations. I certainly understood when I took mine, although as I remember nothing was said about it, that it was the mandate of the people of the republican party, if it should prevail in this election through its agents and representatives in convention assembled, to write in the organic law of the State for submission to the people just what has been submitted here from this committee. I know, Mr. Chairman, that our friends on the other side went through the Territory and attempted to discriminate in favor of the plank in their platform.

The criticism made upon the one was that it did not mean anything, that it was put there for evasion. That it did not bind or pledge anybody to anything. So eager and solicitous were the party men on both sides to emphasize with the people the absoluteness of their convictions on this question, that they even went into hypercriticism as to the meaning of the language used. I thought then, as I think now, that it was put in there in order that Mr. Frank Cannon could run for Congress. It did not occur to me that that mandate was directed to Mr. Cannon, it did not make any difference to the people of Utah whether Mr. Cannon favored woman's suffrage or not, or whether Mr. Rawlins favored woman's suffrage or not. The object to which they both aspired had no connections under the circumstances and conditions surrounding this people with that question. No county office had any connection with it. It must have been put there for some purpose. It was an invitation to the people to

read and vote the ticket. What purpose, Mr. Chairman, could it subserve? To a candidate on this republican ticket—and I purposely leave the settlement of that question as to the democratic ticket with my democratic friends, what purpose could it subserve, except in its relation to the candidates for delegates to this Convention? What other purpose? How can they quibble and quibble and debate and evade answering a plain, open, candid proposition like that? Are we to suppose that the people understood that we were simply seizing the opportunity to declare through the medium of party platform, that we favored equal suffrage? As a matter of fact it was put in that platform and put in the democratic platform I believe, because the party managers knew or thought they knew that the majority of this people were in favor of woman's suffrage. My learned and eloquent friend said himself that he conceded that a majority of this people are in favor of this. What, then, remains to build an argument upon? You start with the proposition that the majority of the people favor equal suffrage, favor it so strongly and earnestly that they want to see it put in the organic law now by this Convention, and you find that both political parties put that pledge in their respective platforms. What are platforms for anyhow? A friend of mine suggested to me the other day that they were simply a sort of crystallization of ideas in general, which did not mean very much, and were brought about by the yielding of the different views of the members of the convention. I grant you that in all public bodies of necessity there must be some yielding or there would be no work done. No single man can get his private views in all their completeness embodied either in legislative acts or in party declarations, but when the labors of a political convention are concluded and the result is promulgated, as I understand political

law, as I understand common honesty and decency, they are supposed to represent what the policy and belief of the party for the time being is upon the subject matter of the questions presented, when the people ratify the sentiments of any political party at the polls, by a majority of votes, electing its nominees. I understand that the ordinary law governing private and social intercourse between men applies. I do not believe that platforms are but molasses to catch flies with, nor do I believe that individuals, agents or servants, elected by the people to carry out a definite and specific line of policy, have any discretion, have any right of judgment left as to the particular question upon which the people have spoken, and as to which they have directed.

Stop for a moment, my friend from Davis, and reflect where we would be left if we admitted for a minute that a departure from such a principle could be recognized. What would be thought of a man who was elected to Congress by the people of his district upon a platform to the people, that he would strike out or strike down or modify or remodel the protective tariff; if, upon reaching his seat in that house of representatives, he should undertake to say, "Conditions have changed; I am not quite so pronounced a democrat upon that principle as I was before the votes were cast, I believe there is some good in a protective tariff, and although my people sent me here with the distinct understanding, under the distinct command, if you please, that when my party in accordance with its principles formulated a proposition, directed towards the correction of the supposed evil, I will vote against it." Suppose next year we elect a representative to Congress, and suppose that the people of Utah have become tired of the income tax, and should incorporate in a platform, upon which a gentleman accepts the nomination, a plank against

that tax, and suppose that a man being triumphantly elected, should take his seat in the following March, and after discussion with other people reached the conclusion that after all an income tax was not so bad, that it could be defended upon principles of sound economy, that it could be justified for many reasons, in fact, that he thought the better interests of the community demanded its ratification there, and should proceed to cast his vote the other way. I don't know how it strikes other people; but it seems to me that if that kind of political conduct can be permitted there is no safety anywhere in popular institutions. It is not so, gentlemen. If you think a mistake has been made you must go back to the forum of the people and move to vacate their judgment. As long as it stands there, right or wrong from an independent standpoint, they are entitled to have it executed, and any other line of reasoning, any other kind of conduct, if permitted, would lead to utter political anarchy. What do you suppose would have been thought of the men who in the dark and trying hours of the great civil war, when a large and strong minority of the people were opposing the further prosecution of the war, and the people of the north were rallying around their President, and in mass political conventions were enunciating their intention to vote the last dollar of the public money and take the last man from their firesides and their homes—if upon such a platform as that a representative elected to Congress should determine for himself when he reached Congress that after all, peace, balmy peace, was a good thing, and that the people did not quite understand what they wanted; that the price to be paid was too much, that the prize to be gained was not worth the price?

What would have become of free government? What would have become of the man who would have presumed to have set up his individual opinion

and judgment against the expressed command of his constituency?

This brings us, Mr. Chairman, to the question of duty. I am glad to know and I firmly believe that the guiding star of the political and private life of my distinguished friend is duty, but I am constrained to say also, that I believe he has made a misapplication of his life purpose in the present instance. I say to myself, under the circumstances, that the duty of the hour is to carry out and obey the will of the people as expressed at the ballot box. If there is a discretion, if there is anything left to the judgment of men, another question is presented. In many cases, perhaps in all the other cases that may arise in this Convention, questions coming before this body of delegates are ones to be solved by them and them alone in the exercise of their best judgments in the light of that star. But this one question has been reserved to the people by themselves. Nothing has been left for the exercise of judgment. It is an absolute limitation as I read it upon the power and authority of the delegate. Nothing is left to pass upon. The question has been decided; it has been voted upon. What then are we to say to those who sent us here? I was told the other day that very many of the men and women of my constituency were not in favor of equal suffrage. I may concede that without having any precise or actual knowledge upon the subject, and yet my answer is, "You are bound by the vote. You are bound by the platform; the time when your voice might have been raised in expression of dissent has passed away." I am not, Mr. Chairman, and I want it distinctly understood, one to assume a place upon a party ticket and promise to keep the party pledge, to violate that pledge knowingly, nor do I see any way to evade or escape carrying out literally the demand of the people upon this question.

Why, what would you gentlemen

have? If they are to erect here this tribunal of private judgment, what becomes of the whole system of party platforms and appealing to the people? What is the use of putting them in? What is the use of going about and getting votes upon them? Oh, I submit to my friend to look back, look within, and answer if he believes in this doctrine in his dealing with the people in relation to party protestations and promises, that you may change with the times, that you may evade or equivocate or avoid or refuse. Do we put them in there for the purpose of deception? Are we to trifle with them in a double sense and keep the word of promise to the ear and break it to the hope, or are we simply like men do what everyone of us said we would do when we entered upon the campaign, record the edict of the people?

And if it is not right and the people do not want it, they will find a way to correct the wrong. But, we are also told, as I infer, that we have a higher duty here than simply to make a good Constitution. We must so regulate the matter to be put into this Constitution, we must so shape and trim it, fit it in and dovetail it here and there, as to insure its acceptance by the executive, and in the same breath we were told by the gentleman from Davis County that he did not care what was in this Constitution, he should vote and labor for its adoption. I do not go that far, gentlemen. I say now, that it is possible—not probable—that such matter might be engrafted in this Constitution that I would neither sign it in this Convention nor vote for it. [Applause.] There, sir, I have the right of private judgment, but I do not believe that we have a right to ignore the plain command of the people simply because it may be deemed inexpedient, simply because we may infer that there is a possibility of its being defeated. I think, sir, that there is a higher duty here than that, that is, to make this Constitution as broad

and great and strong and enduring, in accordance with the principles of our common government, as we can. Whether it shall be adopted or not, whether it shall be accepted by the President of the United States or not, are questions with which we need not concern ourselves. I think the logic of the argument is faulty. To say in one breath that notwithstanding the fact we are told that we should put into this Constitution a certain provision, that because it was assumed it was ill-considered by the people, and because, perchance, it may bring about an adoption and acceptance of the Constitution, that therefore, we should violate all party principles and precedent, and, in my judgment—without, of course, desiring or intending any offense—violating the principles of common honor and honesty and refuse to make the Constitution in this particular as we know and believe the people desire. I think the argument is faulty to say that we should do this thing, because we fear that it will not be accepted. In support of that a number of supposed conditions were cited, which it was said would result in the combining of all the several supposed oppositions to the instrument, which it was thought would result disastrously. First, in the vote by the people, and if that were not so, in the submission of it to the executive. I do not believe, Mr. Chairman, that the insertion in this Constitution of a provision which the people prefer we should put in there, will cause the people, who ordered us to do this, to vote against it. Yet, I care not; that is not the duty of the hour. I do not believe that the President of the United States will undertake to say in violation of an expressed law of Congress, which he himself assented to, that he will not issue his proclamation, if certain things are in this Constitution. I was surprised to hear the imputation made from that side of the house that a democratic President might refuse to obey the law,

because, perchance, he has views antagonistic on the silver question to those entertained by the constituency seeking admission into the Union. It seems to me that we are getting further and further away from the question and that a proposition that needs such far-fetched argument as that must seem consciously weak to those who have put it forth. I hold, sir, that the discussion of the merits of this question, while it is entertaining and instructive and productive perhaps of much profit to those interested in the question, has no place in this argument. It presupposes that we have a right to exercise our individual judgments untrammelled and unbiased, that we are under no obligation of political and public fealty and honor to obey the mandates of the people. That being so, I am going to vote to put this article in the Constitution, and if it is wrong, I can only say that I am simply doing what I was instructed to do. I say this much, because I was afraid that I might not be here when this matter reached a vote, and somewhere and by somebody, the suggestion has been made, and it has reached my ears that I was begging this question, or was on the fence. This is my only apology for inflicting upon this committee a speech of this kind. I am used to that sort of treatment here in this city, but it is not justified and I want it distinctly understood that there is not any proposition, which I, as a public servant, ever have been in all my life called upon to pass, or ever shall be that I will not take one side or the other. I will do it in the open. I did not urge this woman's suffrage plank, I was not the one who urged it quietly for the purpose of getting votes, and then sought to do away with the effect of it. It was against my judgment; it is now; but I recognize, sir, that I owe a duty as a public servant to carry out and to register the will of the people. [Applause.]

Mr. MURDOCK (Beaver). Mr. Chair-

man, and gentlemen of the committee, it may be regarded as presumptuous on my part in the way that I am treating myself, and the way that I am regarded in occupying your precious time. I am here to obey and conform to order. If I get out of order, I am always ready to make reparation. As was remarked by one of my friends, by what I have heard yesterday and to-day I am somewhat full of ideas and some of them have not been given, although the best of them have. The best words perhaps, have been selected, but I thoroughly want it understood, I don't wish to interfere, but it did occur to me that a speaker on this floor, when one rule calls for a certain order to be conformed with, and that is that we are limited to an amount of time, when the gentleman from Davis County, a man whom I esteem highly, said that he had some two hours, I thought there was something there that was a little irregular, that is to my understanding; as I broke in upon him, I wish to apologize and do not desire to do anything to disturb any speaker, for if a speaker is successful, he must have the attention of the audience. I hope in my few remarks, while I am on the floor, Mr. Speaker, I believe there is a certain amount of time allotted to me individually, I wish to give vent to some of my ideas. Liberally one of my neighbors has kindly offered me his time, and I shall accept it, consequently I have twenty minutes and I will remark there is one virtue in what I have to say and that is it will be brief. There seems to be an idea in the minds of some that we are killing a great deal of unnecessary time. I believe in economy as much as any man can, but I think the time that is spent upon this question is well spent, I don't care who speaks, it is well spent. I am not afraid of opposition, gentlemen and ladies, I rather crave it, I rather court it. Why? Because it brings out what would lay dormant; such has been our experience here upon this floor. I have

the best of feelings for every gentleman on this floor, and whatever the results may be in our labors here, as a conclusion I have this to say, that there is not a gentleman here that has lost a friend in me, either democrat or republican; I believe that we have come here for one pure motive; as I declared when I left my home in Beaver County, "I am going there in the interests of the whole people; I am not going there with party feelings desiring that my particular party views may be established, and supplant perhaps, others that have better ideas, but I am going there in the interests of the entire people of Utah." That was my declaration before I left home. It is now repeated, that I am here for that purpose. Now, gentlemen, we are dealing with one of the most important questions, perhaps, before this body of men. We have left our homes. For what reason? We have been chosen from the several communities that we represent, and they relying upon us, upon our judgment, upon our wisdom, and upon every quality that we possess, to come here in a body quietly and lay what? Lay the foundation of a new State. I had rather suffer wrong in my feelings than that we should make one single mistake.

I have not very many ideas, but such as they are they are free and you may imagine when I have told them that I have occupied your time to no purpose, but let this be emphatically understood, that the time we are now spending is a very profitable time, and I am liberal enough to say now, if we should not have sufficient remuneration to remunerate us for our time while we shall remain here together, I am one of those individuals that are willing to give my time gratis for any time that may have been thrown away. I say this question of suffrage is a very important question, and I am pleased—I am more pleased than otherwise that there was a minority report brought in. While I accord with the majority re-

port, yet I am pleased that the other was also brought in, that that side of the question might be looked at and examined. An edifice may be looked at upon one side and it may appear very beautiful but you walk around the corner and look at the other side and the appearance is materially changed. Now, we want to consider this question. The question is here whether the whole people shall have the franchise or whether a part of them shall. That is the question. I will ask the question of gentlemen, what is the power, what is the strength of the nation? What is the element that makes the great power of a nation? I say it is intelligence, that is what comprises the great factor in a great nation—the intelligence of that nation. Now, what is it proposed to do? It is proposed that we shall not have the use of a portion of the intelligence that we are surrounded with and that we esteem so highly as companions, but I am in favor that we shall have the advantage of all the intelligence that we may be surrounded with. I welcome all the intelligence that comes from the world, from the east, from the west, from the north and the south. I welcome it here in Utah, for I realize as I know that I stand upon this floor that Utah is destined to be one of the greatest states in this great Union, of which you and I form a part. There is nothing that will excel Utah, if we will lay our foundation properly and make no mistake. I hope there is not a man that represents any portion of this community but that has come here with an idea to get in something that will be especially beneficial to his community. We want what is broad; we want that which is generous; we want what is suitable for all that are here and will come here. I am speaking for myself; I am speaking for those I am representing, and I am speaking for the people of Utah. I am not only speaking for the people that have lived here their life-time and that have

been the dominant people here, but I am speaking also for those that have come in since, and that are coming in. I say they are all welcome here and the more that come of intelligent men and women the better Utah will always be for it—and her condition will be better. I hope intelligent men and women will come into our midst, and I will say right here, that if I have got a theory of any kind that will not bear the light of day,—will not bear investigation, I say let it go. I do not care whether it is politics or religion or anything else, if it will not bear the light of day, I say let it go. That is where I stand. Now, to the suffrage. Why do I want woman suffrage? It is for more reasons than that I am pledged. I am pledged to my constituents. I am pledged by the platform that I stand upon, and I don't propose to move from it. If there is any fault, it is in the people, just as the man that has just taken his seat says; I am on that platform, and I propose to stay there and vindicate that to the best of my ability. I also represent a community that are suffragists. In every community there is a suffragist association, and I want to say that they are to-day able to teach their husbands civil government and national government. They are to-day able to teach many of their neighbors. Why? Because they have put their minds to it. They have investigated the principle and are able to teach it, and that is the reason why I say that they are able to teach their husbands and their brothers. Their attention has been drawn elsewhere and men only do what they are forced to do from time to time, and I want to tell you, gentlemen, that there is not any of us that know anything only what we have learned; that is all we know. What is it that encourages any man? What encourages an orator? I don't care how eloquent he is, it is the admiration of himself, and the admiration of those with whom he is surrounded

that makes him a great orator. If he was in anyway confused by being turned upon with a cold shoulder, what will it do with him? What will it do with your son? What will it do with your wife? What will it do with anyone? If you turn from them scornfully and say, "We don't want any of your assistance, and we don't admire your talent, and we don't admire anything that is about you?" What will that do for your son? What will it do for your neighbor? What will it do for any member upon this floor, as intelligent as they are? Let it be intimated that we do not want any of your views, what will it do? It will humiliate the man; it will humiliate the individual.

Coming to the female, let us look at it. I say that the strong nation is the intelligent nation, and I say that the ladies are a great factor in that intelligence. Where is our intelligence coming from? It is moving, conditions are moving continually, and because there is an innovation, they raise up in holy horror against an innovation. Suppose there never had been any innovation? Here to-day, we would have been a nation of colonies, that is what we would have been. What were the feelings of our fathers in whom we show so much pride, in the great instrument they brought forth? Did they think when they started out of becoming a great nation, a free government? No, not by any means. They only wanted their wrongs redressed, but circumstances moved along so that they actually had to declare themselves an independent nation. Referring to some ideas of gentlemen, who have referred to what older states have been doing, that should not be—they have been pursuing a policy that has stood the test of time, and many oppositions have been brought before them, and it has stood well. I don't wish to refer to what older states have done; they have done as they pleased, and I hope the people

of Utah will do as their best judgment will dictate to them, and I am not afraid of innovation. We are living in a day of innovation; they are coming upon us continually, and if we get an idea in our mind that we cannot receive new ideas, why we are then beginning to stand *statuo quo*. But there will be innovations and I want the privilege given to every individual irrespective of sex or belief, to have a free view. I want their intelligence. Then they can turn their attention to something perhaps that is more in the true interests of the whole people, than perhaps some of them are inclined to. I consider it a very frivolous thing that the ladies of the intelligence that are living in this age, living in this part of this great country that we live in, that they cannot take hold of these matters and participate in them in a reasonable and straightforward way. It is no objection to me to say that there is a portion that have got the franchise and they don't go and participate in that right. That is no argument to me whatever. I do not care if there is not a single lady, if there is not a single woman that goes and votes after they get the privilege; they are asking for it; they are asking for it all over this land. They are asking for it all over adjoining states and territories throughout the country. And even in the old states they are asking for it, and I say let them have it, and let us try the experiment. The experiment has been tried in this land, it has been tried in other states, and we hear of no great evil results from that great liberality that has been extended to them, and most emphatically I want their intelligence, and when you give them their franchise they will then regard themselves as being equal to man in that one position, and it is conceded that the intelligence is not inferior to man. Well, then, if it is not, why not use it? I say use it and those that wish to participate in the ballot, why let them have the privilege,

and I think no evil results will come from it. I want it because my wife wants it, I want it because my mother wants it, I want it because my daughter wants it, I want it because my sister wants the ballot, and I am willing she should have it, and I will risk the consequences. Mr. Chairman and gentlemen of this committee, I will risk anything that has been portrayed before us, as being calculated to endanger and to deter and to stop the adoption of the labors that may be put in by this body, I will risk the consequences. I am willing to try it. I not only support woman's suffrage from the principle that I have placed myself upon that plank, but I also think it is right. I think it is encouragement; I think it will exercise an encouragement to the female portion of our community, that they have never realized since they have been deprived of that. Put it there and then if the people do not want it, they have the right to say they do not want it, but I say give them the privilege of the ballot, and then let them make such use of it—let me repeat, because others in different parts of the country are not desirous of participating in the ballot, that is no argument that others may not. We see a sample of it here in a piece that was written in Chicago in some of the precincts; there was only a very small per cent. of them that went to the polls and cast their ballot, while others most unanimously did so. It might be so in Utah, there might be some of them go and vote and others might not, but in regard to voting there are many men very careless and indifferent in regard to that, and a great many are paying a great deal of disrespect because the word politics comes up; they want nothing to do with it. While I say it is not a good citizen that does not want to inform his mind, in regard to politics, and while I am here, if I can exchange a bad idea, I do not care where it comes from, for a

good one, I am ready to receive it. [Applause.]

Mr. LUND. Mr. Chairman, and gentlemen of the committee, I have been expecting that I could negotiate a loan of time and have a few minutes more than belonged to me this afternoon, but the arguments so far have been one-sided we may say, except for the masterly showing this morning as to why woman suffrage should not be adopted. It is not expected that an argument against woman suffrage will meet with a kindly reception by the majority of this Convention. Such an argument will be interpreted as a breach of party faith. I wish to submit briefly a few statements which exempt me in part from being under any pledge to that provision in the platform of the republican party that was adopted at Provo. In our county there is no suffrage association. In the town of Mr. Larson there is no suffrage association; there is no suffrage association in the town of Mr. Jolley; there is no suffrage association in the town of Mr. Peterson; there is none in the town of Mr. Page; there is no suffrage association in the town from which I come. There is a suffrage association with a meagre membership at Manti, and I firmly believe that a majority of the good women of the constituency from where we were elected do not desire suffrage. I have never spoken of suffrage in public or in private, without opposing it, and consequently, I feel myself free to speak as I wish on this matter and according to my conscience upon this floor. I did not approve of its being placed in the platform in Provo last fall. I was there and I objected to it. Of course it was there as it is in this Convention, members who are not known cannot be heard upon a subject. The floor is generally given to some one that is known when they rise, of course we must submit to custom. [Laughter.]

Now, I suppose when the ladies consequently surround those who enfranchise them here, with that halo of immortality, that there will still be a few of us to whom will cling fragments of that which is earthly, and I suppose I will have to be one of those. I firmly believe that both parties intended these particular enfranchisement clauses to be drawn and to be placed in their platform to draw numbers, which is acknowledgment in itself that the influence of a few female agitators, even though they vote not, is already a power represented somehow in the ballots cast by the fathers, brothers, and sons. That this power is great, is extremely apparent, and yet men will say that they have nothing to say about ruling the country in which they live. I say they style themselves to be slaves, and it is strange that a slave has such a firm hold upon the reins of our government that we all feel to cater to that slave. Now, in the city where I live, some years ago, there was an agitator of this question. It was her all absorbing field. I assure you that she was a truly public spirited woman. The petty affairs of domestic life were not to occupy her great intellect. She had a big, beneficent and I can add brotherly feeling for all the women of our nation. [Laughter.] She became for a little time the idol of our female brethren. [Laughter.] The enthusiasts, however, were not numerous and now in our county are like white sparrows, between nests. And why were her noble efforts to be so unappreciated and so unsuccessful? The good women of our city saw a mother's duties utterly neglected. I would say if it were not for being too personal that since that time there has been so much domestic discord that she has been divorced by her husband. [Laughter.] Woman suffrage needed no further denunciation before the good women of our city. A prominent suffragist said to me recently, "We have

four classes of men to deal with; the first and worst like yourself, desire women to be a mere slave—give her no rights whatever and tax her without representation; the second class say they could allow her the ballot, but that only; the third class say, we would like women to vote, but she could only officiate in clerical and educational positions. The last and best class (by this she evidently meant the gentlemen who will immortalize themselves here), desire to place woman in her proper sphere, equal in every way politically, socially, and religiously with her brother." A smile of triumph crossed her beautiful face as she finished, "You cannot stem the tide of civilization, you cannot bring opposition that is consistent. It is all inconsistent, it is all vain." I am sorry to say that it seems it is going to be vain here, and at the same time, there is a consistent opposition. Voting alone will not satisfy woman suffragists. They say, "To bring about our intended reforms we must have the right to legislate, to interpret the laws, and to execute them;" that men have not the integrity. If this is the only conclusion that is to be reached, I oppose woman suffrage, not that it is expedient, not that our women of Utah are less capable of a change of heart than the men, but because suffrage with eligibility to office as are recommended in this clause will thrust the wife and mother from the home to officiate in public places. This means only a breaking of the home. Who will not admit this? Who will say that a mother's place can be filled by another? The great and good civilization always comes through great and good mothers. [Applause.]

Woman's sphere is lofty, woman's sphere is noble; the true woman is devoted to her household, home, sacred home, her rightful empire. How wonderful nature has created her loving heart for this sovereignty! True manhood proclaims woman's prerogative,

training her offspring to the love of God, to the love of man, to be the highest and holiest of all. Can she afford to slight these? A mother's teaching to her child will be law to him through life, and the laws which he shall afterwards enact will be righteous laws. His conduct will need little of reformation in his after years and mature judgment. In what degree will we prefer woman's divine sphere and nature and mission? My friend yesterday referred to things biblical, to Christ and his all-reaching love. What does the most accepted part of the holy book say? Only that it is a shame for woman to officiate in public. But, says one, "she is taxed without representation;" woman's relation to property differs in part from the relation of man, that bears that suffrage. She, thank heaven, is very useful in her place, but her physical endowments will not permit her the same degree to brave the elements like men. Who can gainsay that? Man is not dependent upon woman by our civilization for his support. He goes forth with powerful muscular equipment and great endurance, denied by nature to the weaker fair sex, to unlock by hard strokes and inventive genius the storehouse of life's sustenance for those dependent upon him. Woman may sustain herself in many instances. That is the exception, I submit, which exception will become more and more rare forever if woman keeps within her sphere. She may be a widow holding property. This is true, she still may be assured that her son, her father, her true neighbor will protect her, and represent her interests. Proper taxes will be imposed by property owners and will not often be exorbitant and never unnecessary. The old and tried constitutions of the eastern states have not acknowledged this a sufficient reason that woman should sacrifice her station of social preferment in life, to share equally with man the burdens of state. The home is the metric community of

our national greatness. Its sanctuary should not be invaded by political strife. A committee of two disagreeing can never settle a difficulty. Who would give in the majority report? [Laughter.]

Impracticable it is, of course. Political feelings are of all the most ungenerous and flagrantly irreconcilable that are known. Woman was declared yesterday capable of independent thought, provided suffrage exists. Would it not frequently occur that husband and wife held with right, different party affiliations? If we may judge by election fights on our great election day, we have the right, with good reason, to presume that equal suffrage would disturb domestic tranquility. What a beautiful condition of affairs we are on the verge of introducing into our new State. What peace and solace into its families. I ask, Mr. Chairman and gentlemen, has equal suffrage been sufficiently discussed in Utah? Do a majority of our good women desire it? I have never been able to think of this question in any light, but that there is more novelty about it than there is necessity for it. Mr. Chairman and gentlemen, let me say my say of ending, that like you, with the exception of the gentleman from Davis, I have had political aspirations, but I surrender them here with due consideration for the purpose of being honest to the convictions of my conscience and the teachings of my mother and believe in woman's suffrage, after the arguments here advanced, less than ever before. [Applause.]

Mr. BOYER. I just would like the privilege of asking the last speaker one question. I would like to ask the gentleman from Sanpete whether or not he is a married man?

Mr. LUND. Mr. Chairman, I am not a married man, and what is more I shall not make the—

Mr. GOODWIN. The gentleman is protected by the laws from criminating himself.

Mr. LUND. I desire to be frank and

answer a civil question. I do not know whether the gentleman has any daughters or not [laughter], if I should find anyone who was so unfortunate as to be willing to help me change my situation in life, I should certainly find from her first that she declined ever to entertain ideas of woman's suffrage. [Laughter and applause.]

Mr. BOYER. Mr. Chairman, I arise to a question of personal privilege. The question asked by myself was rather impelled by the remark from the esteemed gentleman from Beaver, that no gentleman upon this floor knew anything, only that that he had learned, and being desirous of a little further acquisition to a meagre learning, I desired to obtain from this gentleman his true status in life, with respect to the matter. I admit that I am mistaken. I had thought from the able reasoning and the manly form of the manly man that he was a married gentleman, and consequently this question. However, I desire to state, that in the county from which I hail (Utah County) a fairly densely populated county, and largely sprinkled with fair and beautiful ladies, the gentleman will be thoroughly safe traveling to and fro. There will none approach him with his present political aspirations. [Laughter and applause.]

Mr. GOODWIN. Mr. Chairman, I think I will finish before the limit of my time is up. If I do not you can come to the protection of the Convention by using your gavel. I want to make a statement or two, not a speech, or if it is called a speech, I want to read it by the title and have it referred. I want to say first, that the delegates from Salt Lake County, under instructions of the county committee, as I think I can establish by the gentlemen who had the matter in charge, instructed all their speakers not to press the question of suffrage. I wish to say that I am under no obligations to any platform in the world, because, first I

did not attend any convention or any primary. I did not ask any one to support me. I was never questioned, and beyond that, because of the occupation, which I have indulged in for a good while, and probably will again if we ever get through, my views are pretty well known by those who read my newspaper, which, I take, will include all the intelligent people in this part of the country. [Laughter.]

I am not predisposed to believe in woman's suffrage, not on the ground of my friend from Davis County, that the man should rule and the woman should obey; I never believed that even before I was married. All married gentlemen will agree that they have no occasion to believe it since. I never construed that passage as my friend from Davis County does. I always thought that the passage, that the desire of woman should cleave to the man, had reference to another matter altogether, but from boyhood, in reading that, and construing it literally, while I did not question in the least the wisdom of it, I did not think that in this Convention they had hired a stenographer by issuing bids and took the lowest bidder, and that the minutes had not been corrected. I do not believe that the intention was for man and woman, husband and wife, to drive tandem, but rather that they were to work side by side, in double harness, and I am perfectly willing to admit that in ninety-nine cases out of a hundred the grey mare is the better horse.

But there are other reasons why I naturally, with what study I have given the matter, do not take friendly to woman's suffrage. We are all creatures of education and association. You take a swarm of industrious bees from a cool country to one of the islands of the Southern Pacific, they work along until the time when winter ought to come, and the moment they discover there is to be no winter, that the flowers bloom perpetually, to the last bee they

become dirty loafers and take to the woods. You take a boy from the granite hills of New Hampshire, full of vim and energy, transport him to Los Angeles, and go there twenty-five years after and find him, and you will see him with a pair of overalls, held up by one suspender, riding with rawhide stirrups, and smoking cigarettes, and saturated absolutely through with dry rot, and not worth the powder and shot to kill him. In China, through their fight for hundreds of years with famine, the very dress is trimmed down to meet the conditions around them. The beards have been trained from the faces of the men, the breasts from the women, because of the fearful necessities that surrounded them. Now, then, do you believe that these conditions can be changed by climate, or by the necessity of life, and that still you can put human souls in association altogether foreign to what they are intended, and not make an impression upon them? You say women are our equals. I do not stop with that; they are our superiors. You say they are entitled to the same rights politically. Very well. If that comes, it means not only that they are to vote, but they are to go into the primaries, they are going to rustle with the boys and girls, they are going to your office; and that makes me thankful to the gentleman from Salt Lake, who yesterday brought up the example of the Spartan mother. I am much obliged to him, but I am a little rusty in my classics. He thought he saw a noble character in that Spartan mother; I have never been able to see it; but it illustrates this matter exactly. Man gets his character from his mother. If the mob that followed that woman's example, supposing it be true, and piling stones over that unfortunate wretch of a son, because he had accepted bribes, had been gifted in the knowledge of what governs the human systems and the minds and souls of men, in my judgment, the moment that mother placed the first

stone, some wise woman would have called the mob aside and said, "See here, the boy is not to be blamed; before that child was born that mother had an insane longing for a house as good as some woman across the street, or a dress or a parasol as fine as some other neighbor wore." That infirmity in that boy's mind and heart came direct from that cold-hearted mother, because if she had been a true mother she would have gone to that son and said, "You have done very wrong, but perhaps after all it was my mistake. Perhaps I am to blame. You are my child, and while the world turns against you, I am not so sure of being perfect myself that I can give up my human affections. I will stay by you and if they cover you with stones, I will be covered too." The fact that she, in her pride, was willing to cast off that son was the excuse for the crime of the boy, because it showed that woman had not the principle in her of bringing forth an honest son.

Now, if this goes on, how do you, Mr. Chairman, or how does any gentleman here, know what is to come of it? I do not mean this year or next or the year after next, but I mean in the future. If women take part in the elections they will want to hold offices. Now, and I beg pardon for having to talk on such a subject; it is necessary or I would not; suppose some woman wants to be governor, or wants to be chief justice, and says very frankly that the man who is now governor or who is now chief justice is inferior to her in mental acquirements, and just before the convention meets she discovers that circumstances over which she has no control will make it necessary for her to postpone her nomination until next year. What kind of children will you have in this world after a while? I say be careful. I say the world should be careful, not to bring immortal souls into this world surcharged in advance with all the stormy passions which fill a disappointed or an irritable woman so placed. Those are my grounds for

believing that suffrage for woman is not just the thing. At the same time I always hold, in public and in private, that my judgment ought not to control even myself, for a great many wiser men take an entirely opposite view, but I do believe in this effect upon woman. When she changes her sphere, not lowering it as has been said, but changing it, you know very well, Mr. Chairman, that this particular influence does have effect upon women. For instance, can you imagine any conditions that now or at any time have existed where Susan B. Anthony could have been a wife and a mother? And do you think that Mary Washington or Martha Washington lost any of their grace or their modesty because neither of them in their day had the right of suffrage? And do you believe that old George would have led the armies of the United States any better had his mother, instead of teaching him the truth which made up that great characteristic of his, she had been off at a primary or in a convention; when you read of George Washington, what do you really do? You take off the hat of your soul in reverence to Mary Washington, and you admit in one moment that he was great simply because he had a good mother, and carried out in his life with his strength the glory that was in her soul.

We have a great many reasons given why we should not have woman's suffrage. And that makes me think that among the rest one reason given is that there is unrest in this community, a feeling of uncertainty and of how the future is to be. To prove that the fact is not true, the gentleman from Salt Lake yesterday energetically called in criticism the report of the minority committee here, and declared that in that report the committee had charged the ladies of this State or Territory with improper motives. I would pay no attention to it, except that the same gentleman did the same thing in

the caucus the other night, which we have heard of here before; and I speak of it simply because that was not a binding caucus at all but simply a meeting for exchange of opinions, not intended to bind any gentleman present.

Mr. JAMES. I would like to ask you a question. Did it bind anybody or was anybody bound in the caucus?

Mr. GOODWIN. Not the slightest. If there had been I should not have mentioned the caucus here. It was simply an exchange of opinion. At that time the gentleman who filed this report explained to the gentleman from Salt Lake that all his reference was simply political; that he had not the first personal idea of offending any lady or saying anything disrespectful to the ladies. Still the matter seemed to be in his soul yesterday, when he charged that this report of the minority charged the ladies with improper motives. It is worth a moment's attention. What does it say? It says, "a wide spirit of fear prevails that with this privilege restored the old overwhelming force will destroy the present equality of parties and awaken a terrible temptation on the part of those who ruled before to resume their sway by working upon the generous impulses and religious instinct of woman." Now, I appeal to every gentleman, and to every lady for that matter, whether it is ascribing an improper motive to a lady, to say that her generous and religious instincts may be appealed to? That is all it says, and I speak of it because the very impetuosity and vehemence of the gentleman's remarks that there was nothing of that kind to be dreaded here, carried the impression to me that the ashes of the old contention were still warm in his heart, and that he ought to turn the hose upon them, lest there might be a spark there carrying with it so much hell-fire that any political excitement or any whirlwind of religious fanaticism might set the State afire by it.

Now, coming down to our duty; as I said in the beginning there was no pledge of any convention upon me at all, but in that caucus I had a new experience. I have always read that plank in the platform as a party catch word; and while upon it I might say, perhaps, that we all know how solemn a thing a democratic or a republican territorial convention is. That it is the representatives of the people that want to get the best statement of principles they can and get into that statement as many catch words to catch votes as possible. Still it has a valuable effect with limitations. All the people are represented in those conventions. So all the people are represented in this hall. We will suppose a case. We know what the pledges of the platform are, we will suppose that there had been a revulsion in feeling and that the people from all the counties in the State were sending in protests and petitions here that we should ignore woman's suffrage, would the plank in the platform bind us? I think not; but there is another side to it. In that caucus, to my astonishment, I found young man after young man get up and say, we took that platform in the very best of faith, we made our campaign upon it, and because we pledged this we got all the prettiest girls in our towns to come to our meetings, and all the good singers sang in our meetings. It is a fad with them. Now, that makes a different state of affairs. Mr. Chairman, if the people of this Territory that have not been as long drilled in politics as some of us, expressed their sovereign will by what the speakers of a republican and a democratic party said last summer, and believed that this great principle was intended to be carried out, and if to deny them that will make them lose their faith in the integrity of parties, that puts a new phase on it altogether, and it is for that reason, Mr. Chairman, that I say while I think it is a mistake, at the same time my judgment is not as

great as other people's, and as Mr. Lincoln said, "everybody knows more than anybody," I shall vote against this amendment, and if I am in the Convention, I shall vote for the article as it comes down from the committee; and now just one more word.

I wish to say to my friend from Davis County that in the anticipation of his loneliness when his party shall have dropped him, it is not going to be so bad as he thinks, because several years ago, fearing that some political bee would get in my bonnet, I pasted the story of the little girl in my hat. She had been very sick, the doctor had given her some very bitter medicine; she got well, but she always hated that doctor, and when they told her that he helped to cure her, she said she knew better, that God cured her in spite of the doctor; she knew it, because her mother told her so. Now, I know what the mothers have told their children in Utah, hence I wish to beg my friend from Davis County that he will permit me in the solitude of that night that has no star to come over and sit with him, and if, as a last missionary work, I can convert him from the heresies of that democracy which seemed to possess his soul, I will think more of that lamb than all the rest of the flock that is out on the range. [Laughter and applause.]

Mr. CANNON. Mr. Chairman, I arise to a question of personal privilege. Gentlemen of the committee, an allusion has been made to my remarks yesterday in a way in which I think demands a personal explanation. That which took place in the caucus which was supposed to be secret has been alluded to by the last speaker, and it causes me to make the explanation which I desire to make. The gentleman who heads the list who signed the minority report did make the explanation that has been made by Judge Goodwin. At the close of our caucus he announced that he had the utmost respect for the ladies of Utah; that he believed that

they were honest; that he did not desire to cast any aspersions upon their character. My remarks in the caucus and his remarks in reply were not before this committee or this Convention, but on the other hand, there was before this committee, and upon the records which are being made here, a charge to this effect, that the widespread fear prevailed, that with the privilege restored the old overwhelming force would destroy the present equality of parties, which always leads to confusion, if not to tyranny, and awaken a terrible temptation on the part of those who ruled before to resume their sway by working upon the generous impulses and religious instincts of women, which would result in political, if not social and business, ostracism of the minority. When the gentleman states that it is not an aspersion upon the character of the women of Utah, I must beg to differ with him. When he says that any class of men or that any man can attack my mother, my wife, or my sister, to the extent that she would go back upon her pledges, which were made when we divided on national party lines, he makes a charge which I think should be refuted, and be met. Now, on this other point, where he says that I spoke with more zeal and more impetuosity than was proper, I simply would state this, when I speak I desire to be heard by those who are present. I do not desire to have my attitude misunderstood, and I speak honestly the sentiments of my heart, but I will say further that there is in my heart no spark of bitterness, no feeling of bitterness toward any man who ever had opposed me religiously, socially, or politically. I have met those who were my former political opponents, and those who have come in close contact with me know that I have treated them honorably and fairly, that I have not betrayed them, and that in that which I have done, I have met them with that fair-

ness and that honor which I expect them to accord to me.

Mr. EVANS (Weber). Mr. Chairman, I do not know whether it is desirable for the committee to rise at this time; it seems to me that we have had a long session, and it would be somewhat cruel to inflict upon the committee any further remarks to-day. I would therefore move that the committee now rise and report progress.

The question being taken, the committee divided, and by a vote of 49 ayes to 35 noes, the motion was agreed to.

The committee then rose and reported as follows:

Your committee of the whole have had under consideration the article entitled elections and rights of suffrage, and now report progress.

Mr. CANNON. Mr. President, I desire to move that we now go into committee of the whole for further consideration of this question.

Seconded.

Mr. CANNON. My reason is this, I think that we are spending a good deal of time on the matter. I am perfectly willing that we should spend as much time as necessary, but I think that we should not adjourn at 4 o'clock, when we have so much work before us. I think that if we do this every day, the first thing we know we will be in the middle of the summer without accomplishing the purpose for which we convened. I am in favor of sitting until we complete it.

Mr. ROBERTS. Mr. President, I would move an amendment to the gentleman's motion, that we have an evening session.

No second.

Mr. EVANS (Weber). Mr. President, if any gentleman here would like to speak to-night I would vote to go back into committee of the whole. So far as the few remarks I wish to make to the committee are concerned, I do not desire to do it to-night. I know that they are tired. I feel weary myself. I

think I would not do justice to myself or the committee.

Mr. CANNON. Mr. Evans, I would like to ask what length of time you desire.

Mr. EVANS (Weber). I expect to occupy about twenty minutes or perhaps thirty.

Mr. CANNON. Mr. President, I would suggest that if that is all the time the gentleman desires to speak it could be done to-night. I would not like to press it.

The question being taken on the motion of Mr. Cannon, the Convention divided, and by a vote of 38 ayes to 47 noes, the motion was rejected.

Mr. HART. Mr. President, I call for the regular order.

THE PRESIDENT. The third reading of ordinances and propositions for insertion in the Constitution is the regular order.

Mr. KIESEL. Mr. President, I move to adjourn.

The question being taken on the motion to adjourn, the Convention divided, and by a vote of 40 ayes to 43 noes, the motion was rejected.

The Convention then proceeded to the third reading of the article entitled preamble and declaration of rights.

Mr. EVANS (Weber.) Mr. President, I move that we read the declaration of rights by sections and pass upon it in that way.

The PRESIDENT. Leaving the preamble until the last?

Mr. EVANS (Weber). Leaving the preamble until the last.

The secretary then read sections 1, 2, 3, 4, 5, 6, 7, 8, 9.

Mr. HART. Mr. President, I move an amendment in line 5 of section 10, by changing the word "such" to the word "civil" so that a two-thirds verdict of the jury only in civil cases and not in criminal cases less than felony. I think it is inconsistent to make a difference between a felony and a misdemeanor, so

far as unanimity of the jury is concerned.

The motion was agreed to.

Mr. HART. Mr. President, I would suggest, to make the balance of the section conform to that, the word "civil" in the seventh line should be changed to "such," in order to avoid a repetition of the word "civil." I move that as an amendment.

The amendment was agreed to.

Mr. WELLS. Mr. President, I desire to offer a verbal amendment. I move that the word "not" be stricken out between "shall" and "consist" in the ninth line, and to insert between the words, "of" and "less" in the same line, so that it will read, "provided, that a jury in the district court shall consist of not less than nine."

The amendment was agreed to.

Mr. EVANS (Weber). Mr. President, I desire to offer a substitute for section 10, which I will pass to the secretary's desk.

The same was read as follows:

Section 10. A lawful jury, both in civil and criminal cases, in all courts of general jurisdiction, shall consist of nine jurors, except that in capital cases the jury shall consist of twelve, but in civil cases the concurrence of two-thirds only shall be necessary for a verdict, but in criminal cases all shall concur; in courts of inferior jurisdiction a lawful jury, both in civil and criminal cases, shall consist of three jurors, but in such courts, in civil cases, the concurrence of two jurors only shall be necessary for a verdict, but in criminal cases all shall concur. A jury shall be waived in civil cases unless demanded.

Mr. EVANS (Weber). Mr. President, as this is a very important section, one as important as any in the bill of rights, I think it ought to be printed, and pass that section and go on. I would not like gentlemen to act upon it without a knowledge of what they were doing. At the time that we drew and adopted section 10, it was in view of the fact that the judiciary committee at that time had practically agreed upon four classes of courts; first, senate, sitting

as a court of impeachment; second, supreme court; third, district courts; fourth, probate courts, and fifth, I might add, justices of the peace. The committee at this time have agreed that we can get along by abolishing one of those courts altogether. I do not know whether the Convention will accept the report of the judiciary committee or not, but we have agreed practically unanimously to do our judicial work in Utah without any probate courts. Let the district courts have that jurisdiction. It will save a very large expense, and if that be the sense of the Convention, section 10, as it now stands, would not be appropriate, because it provides for a certain number of jurors in the probate court. And another thing, that section as drawn and adopted, and which was argued here at some length you will remember, is in technical legal language, that is the right of trial by jury shall remain inviolate. Those words mean certain things which the courts have given them. The language which is now proposed for section 10 is in plain English, and I see no reason why it should not be adopted. It provides that a jury of nine shall be a lawful jury in criminal cases and all of the jurors must concur in the verdict. In civil cases, there must also be a jury of nine men, two-thirds of whom must concur in the verdict, and this applies in courts of general jurisdiction, not naming the courts at all. Then, there is another class of jurors in courts of inferior jurisdiction. A jury shall consist of three men in both civil and criminal cases.

Mr. ELDREDGE. What courts are those?

Mr. EVANS (Weber). Justices of the peace. All three of these men must concur and give a unanimous verdict, in criminal cases, but in civil cases two of them can render a verdict. Now, that is all there is of it.

Mr. SQUIRES. There is another pro-

vision there about capital punishment is not there?

Mr. EVANS (Weber). Yes; and I thank the gentleman for calling my attention to it. In capital offenses, where a man is upon trial for his life, we preserve the old common law jury of twelve men, who must render a unanimous verdict. The provision is carefully drawn, and I think expresses the view of the committee of the whole the other day, when we were discussing that question.

Mr. CRANE. Might I ask the gentleman a question?

It says that the jury shall consist of twelve men; if the right of suffrage is given to women, how will that word fit in there?

Mr. EVANS (Weber). Now, let us see about that. The gentleman from Millard has not understood the reading of it; I carefully guarded that in drawing it.

(Reads proposed substitute).

Mr. SQUIRES. May I ask the gentleman a question? I would just like to know if the entire judiciary committee has passed upon this proposition as you present it now?

Mr. EVANS (Weber). The judiciary committee have practically agreed upon this, but I will not speak for them now, because some of them perhaps may not. We have agreed upon the principle of it.

Mr. SQUIRES. Ought we not to delay action for a little on that proposition?

Mr. EVANS (Weber). I would like it very much if this matter could be left to the committee on judiciary for further report, and I move, Mr. President, that this section be referred to the judiciary committee for report.

Mr. WELLS. I second the motion.

Mr. CREER. Mr. President, I arise to a point of order. I think it is not tenable to take this out of the control of the Convention now on its third reading and refer it to a new committee. I

think, in the first place, it properly belongs in this article—preamble and declaration of rights, and I think it should remain here.

Mr. EVANS (Weber). I think so, too, and that is where it shall go, but simply refer it to the judiciary committee with a view to putting it back in the bill of rights.

Mr. CREER. Why, Mr. Evans, do you suggest striking out the first part, "the right of trial by jury shall remain inviolate?"

Mr. EVANS (Weber). The only reason for that is this, that when we say the right of trial by jury shall remain inviolate, that means a jury of twelve men with a unanimous verdict. That has a well understood, definite, common-law meaning.

Mr. CREER. I would not have that, it seems to me—

Mr. EVANS (Weber). Except where the exceptions are expressed.

Mr. CREER. They are expressed here. That is why I prefer having this in, to secure that right. It shall remain inviolate.

Mr. EVANS (Weber). As long as this method or this form of jury is in the bill of rights, it does remain inviolate; it is in the Constitution and cannot be changed without changing the Constitution.

Mr. ROBERTS. Mr. President, the only objection I could have to this matter being referred to the committee on judiciary to be reported back to be put into this bill of rights, is that it seems hardly in order, because it is hardly courteous to the committee on the bill of rights to take a matter entirely out of their hands to be considered by another committee and then reported back and put into the part of the Constitution immediately under their charge. I should object to it on the ground of rather carrying with it the idea of a want of confidence in the committee on the bill of rights.

Mr. EVANS (Weber). I had an under-

standing with the chairman of that committee, that it was satisfactory. I would not offer any affront to any gentleman on any committee.

Mr. ROBERTS. Then, Mr. President, with that understanding I will support the motion.

Mr. CHIDESTER. Mr. President, I should object to that for this reason: That this section was discussed at some length the other day and passed upon and it was decided that a jury in a justice's court should consist of not less than three members. Now, the substitute seems to change that and make it a jury of three members in the justice's court, and I think the Convention was satisfied with that as it was before, and I should object to its going back and being changed in that respect; to make it a jury of three members in a justice's court.

Mr. WELLS. Mr. President, I will say in regard to this section that when the matter was under consideration in committee of the whole I moved—but was out of order as usual—to refer this section to the committee on judiciary. While it is usual to have such a section in the bill of rights, it is a matter that pertains peculiarly to the judiciary. It belongs to them. It was discussed by them in the committee, more largely than by any of the rest of the committee, and I see no objection whatever to having it referred to them to report back in the Convention. It does not say that they are going to decide it. We will have the last voice in this matter and whenever they are satisfied with it, I think the Convention will be.

Mr. SQUIRES. Mr. President, the objection raised by the gentleman from Garfield I do not think should have any weight; that we have changed the number of jurors in courts of justices of the peace, because that matter will come up for consideration when we get this report back again. I am in favor of the reference of this article to the judi-

ary committee, because I should think there should be conformity and uniformity between the two courts. There must be if we have provided in this article for more courts than the wisdom of our judiciary committee seems to think is necessary. I think we ought to conform to that, especially we who are not lawyers, and for that reason, I would be perfectly satisfied to have the matter go back to the judiciary committee.

Mr. WELLS. Mr. President, I move to amend the motion to refer to the committee on judiciary, with instructions to report back this section to the Convention.

Mr. EVANS (Weber). Can not we make it even more binding than that? Can not we make it binding upon them to report this back to-morrow? After all the consideration they have already given it, certainly they ought to be able to pass upon it to-night.

The PRESIDENT. Will you accept that amendment?

Mr. EVANS (Weber). Yes, sir.

The motion as amended was agreed to.

Mr. EVANS (Weber). Mr. Eichnor has a substitute for section 10, which I ask that he may introduce by unanimous consent and go to the committee on judiciary.

Mr. SQUIRES. Present it to the judiciary committee.

Mr. EICHNOR. All right.

The Convention then, at 4.40 p. m., adjourned.

TWENTY-SEVENTH DAY.

SATURDAY, March 30, 1895.

Convention called to order at 10 a. m.

President Smith in the chair.

Roll called, showing a quorum present.

Prayer was offered by Rev. A. Kinney Hall, of St. Mark's Cathedral.

The minutes of the twenty-sixth day's session were read and approved.

Petitions and memorials.

A petition was presented, signed by 1811 citizens of Logan, asking that the question of prohibition be submitted to the people.

Referred to the committee on schedule, future amendments and miscellaneous.

Mr. Lewis presented a memorial signed by 3700 residents of Weber County, requesting that the question of prohibition be submitted to the vote of the people.

Referred to the committee on schedule, future amendments and miscellaneous.

Mr. Miller presented a petition asking for the submitting of the question of prohibition to the legal voters, signed by residents of Sevier County.

Referred to committee on schedule, future amendments and miscellaneous.

Mr. Peters presented a petition, signed by Rev. E. H. Snow and others, of Corinne, asking that the question of prohibition be submitted to the people as a separate proposition.

Referred to the committee on schedule, future amendments and miscellaneous.

Unfinished business.

The PRESIDENT. I would state to the Convention that when we adjourned last night, we had under consideration the preamble and bill of rights and had reached the tenth section, which was referred to the committee on judiciary, with instructions to report this morning.

Mr. EVANS (Weber). Mr. President, I see the chairman is not here, and I should assume to say, that we have had under consideration section 10 of the bill of rights, and a draft has been agreed upon and has just been placed in the hands of committee clerks to be written out. I have a draft here, which, if it is desired, can be presented now. I will offer it as the report of the committee on judiciary, and ask that it be filed and taken up in its regular order.

Under the rules the report was ordered printed, and placed on the committee of the whole calendar.

Mr. HART. Mr. President, I move we now resolve ourselves into committee of the whole.

The motion was agreed to.

The Convention then went into committee of the whole, with Mr. Buys in the chair.

The CHAIRMAN. Gentlemen of the committee, when we adjourned yesterday, I believe we had under consideration, the article on elections and right of suffrage.

Mr. ELDREDGE. Mr. Chairman, at first I did not intend to speak to the question which is before us for consideration, but as it has taken such a wide range, and has circumscribed a vast field for reflection, I feel that I cannot pass the opportunity of speaking and expressing a few words on this subject. I have no set speech prepared and whatever I might say, will be drawn from the resources of my soul at the moments the expressions receive utterance.

I realize fully that the condition confronting us is peculiar in itself, and opens a wide and broad field for reflection. I realize, Mr. Chairman, and gentlemen of this Convention, that man and woman's destiny is inseparably connected, and whatever pertains to the interest of one circumscribes and involves the interests of the other. Whatever is of a nature detrimental to one of a matter of necessity it is injurious to the other. We have heard doctrine enunciated here that in many instances is somewhat different from my views of the subject. We have been told that woman does not possess an inherent right to the suffrage, that suffrage does not lie upon that basis, that it is the privilege granted by the government. If this be a fact, where does man possess the inherent right of the exercise of that privilege?

If I mistake not, governments are framed by the consent of the governed, and whatever power or authority there

exists in governments, they acquire it from those who are governed.

This being the case, then is it reasonable that governments possess the right to give the privilege of franchise without having first secured that right from the governed?

They only exercise such powers as the people see fit to confer upon the government, and, therefore, if it is a power invested in the government, that government has derived it from the people. Who are the people? It would be utterly impossible for a government to exist, with only those who claim the right of suffrage in its narrow sense. Governments without a people would be what we behold in many parts of this great country—extinct when the people become extinct.

Our forefathers must have had this under consideration—forefathers who were not mere ciphers; forefathers who were not indifferent to the interest of the children of men; forefathers who had no disregard for liberty and human rights, but forefathers who had interest in establishing a government; forefathers who had an interest in securing to themselves, to hand down to their posterity, liberty and the right to pursuit of happiness; forefathers who were unable to grant entire conceptions of the human race; forefathers who were willing to bare their breasts to any steel and any lead, that we might inherit the liberties that we now possess; that brought from the mother country their freedom and their liberty, and they have thus provided that class of men in England that has been handed down in the fundamental law that governs this grand nation. We have this declaration in the Constitution of our country:

The United States shall guarantee to every state in the Union a republican form of government.

What is a republic? That which is common and general. That which per-

tains to the general commonwealth. It makes no distinction so far as sex is concerned. It applies equally to the male as it does to the female, and vice versa, that they should have a republican form of government. Therefore, this very sentence expresses the view that it was not with a view of curtailing the franchise, but it was with a view of protecting the franchise, that they should guarantee this right.

If any state should assume to curtail the privilege, it would be the duty of the general government to step in under this provision, and which we have accepted and adopted, and say that there cannot be any invasion upon the rights of that sacred privilege of right.

Man has a voice in saying who shall make the laws that govern him. Man has a voice in saying who shall execute those laws. Man has a voice in saying who shall place the valuation on his property. Man has a voice in saying who shall expend the revenue that is collected by reason of the assessed valuation of his property in conformity with law. Is there any more reason, in the light of justice and equality, that man should exercise these rights than there is that that person, who, as the eminent gentleman from Davis County said, was created for the express purpose of walking side by side with man? Their feelings and their sentiments in a large degree are simply in conformity with ours; if not, I had viewed the human family from a wrong standpoint.

We are confronted here with the idea that platforms are only made for expediency sake, such logic has been advanced, and there is nothing sacred in such documents.

I cannot view it exactly in this light. I wish to briefly review the history which led up into the election of perhaps every gentleman in this Convention. When the republicans met in territorial convention in Utah County, and the question there was presented of woman suffrage, was it presented from one

side of the people of this Territory? Let me say that in that convention was alike Mormon and non-Mormon. In that convention representatives from the ex-people's as well as from the ex-liberal party. I presume that there was no thought or distinction made when they were electing those delegates to that convention as to what their former political standing was, or as to whether they were Mormons or not Mormons. They had, as I supposed, buried the differences and the bitterness of the past. They had come out upon party lines; upon any grounds, they were children of the same Great Creator, their interests were identical with each other, the prosperity of one meant the prosperity of the other, and it was supposed they had agreed to lay old issues past, come forth unto the broad standard that had been laid down by the great parties of this nation, and walk hand in hand for a common purpose. And, perhaps, it will only be just for me to say, Mr. Chairman, that the gentleman who was the chairman of that committee upon platform was a non-Mormon, was a person that had come from the ranks of the ex-liberal party, and upon that committee it was evenly divided, so far as I recollect, betwixt Mormon and non-Mormon, and when that measure was proposed, I remember well the expression that I gave upon that occasion. I was a member of that committee. I said, "so far as the matter of right is concerned, there is no question in my mind whatever, now; I believe that it is as much an inalienable right upon the woman as it is upon the man," but I said, "as for the wisdom of the measure, I somewhat question it." And let me here state, Mr. Chairman, that I have had no occasion to change my opinion, as for the matter of right there is not a doubt in my mind; as for the wisdom it is a question. You may call it wisdom or you may call it expediency. Man has a right to thrust his hand into the fire if he chooses,

but, in the language perhaps of one that has preceded me on this floor, it will make an "all-fired sore." But there is no question about that right; man has his agency, to exercise it as he sees fit, subject to an accounting for that agency. If this were not an immutable law, then the Author of our existence is a respecter, of persons. and that which is immutable and eternal in its nature, man cannot change.

The complexion under which our souls are clothed, the difference of conditions under which we came into this world, demonstrate that there must be merit—reward and punishment. If not, then there must be in that all-giving Life a proper respecter of persons.

And in that platform the plank of woman suffrage was placed. It was presented to the convention and the convention received it with open arms, and with the greatest enthusiasm. Not a word was expressed against it, and not a voice in it denouncing the doctrine. It passed. It went abroad. It was telegraphed to every town and every city and every village, where telegraph communication is in this Territory, that the republican party had placed within their platform, a woman suffrage plank. There was no mass meeting held in protest against such a measure. There were no speakers who went upon the stump and denounced the principle. And in conformity with the doctrines laid forth in that platform, primaries were held, delegates were elected to county conventions, and county conventions were held, and men received nomination for delegates to this Convention, upon that platform, and that platform was the plank for woman suffrage. As with the republican party, so it was with the democratic party, they enunciated the same principles concerning this particular item in their declaration of principles. We accepted the nomination under those provisions, the election was had, we entered no protest against

it, and we were elected. I hold that at that point then we passed a transition of right that to exercise our own judgment as the accepting a delegated authority, it was no longer your opinion or my opinion, it was the opinion of the people universally upon that question. It came to us as a trust, that we should see that, so far as that provision was concerned, it should be carried out.

I then had accepted it with full knowledge of the situation; I had accepted it also with the belief that it was a right that woman was entitled to; it was as much an inherent right in her as it was in man. But as I said, I had questioned the wisdom. When we come here then, do we come here to set aside the judgment that has been given before? Do we come here to ignore the trust that has been reposed in us? Do we come here with a view of overlooking all that has been said and done in this matter, and fall back upon our individual judgment? I hold, Mr. Chairman and gentlemen of this Convention, that there was a sacred trust entrusted to us, that we had a certain delegated authority which we were supposed to magnify, and though it put statehood in jeopardy, would that justify us in deviating from the course which we have marked out? I would say let statehood—like the able gentleman from Utah County remarked, in regard to expediency—"go to the dogs" rather than betray the trust that has been reposed in us.

Mr. MACKINTOSH. May I ask the gentleman a question?

Mr. ELDREDGE. Yes, sir.

Mr. MACKINTOSH. Is there any thing in the republican platform that says, "put it in the Constitution"—in the republican platform?

Mr. ELDREDGE. I believe the platform answers the gentleman's question.

Mr. MACKINTOSH. I say, is there anything in the republican platform

which says that it shall be engrafted in the Constitution?

Mr. ELDREDGE. Yes, that we favored the question of equal suffrage.

Mr. MACKINTOSH. We can do that through the people in the Legislature or in any other way. The question is, is a man betraying any trust by not voting for it here, and adopting it in the Constitution?

Mr. ELDREDGE. But, says one, statehood—don't you want statehood? Yes, I want statehood. I appreciate the sparkling gem. I appreciate the privileges and blessings that are to be enjoyed under statehood. I see it dazzling before my vision constantly. But do I want statehood at the sacrifice of honor?

This brings me back to the sentiments expressed in the minority report, and I trust gentlemen will excuse me for referring to them, because I think that if there is any question lurking under a cover, that here, and here alone, it should be brought to the front, and that if we had not had a common understanding in the past, it is high time that we understood one another now.

(Reads minority report as follows:)

A widespread fear prevails, that, with the privileges restored (that is the privilege of woman suffrage) the old overwhelming forces would destroy the present equality of purpose; it always leads to confusion, if not tyranny, and awakens a terrible temptation on the part of those that ruled before to assume their sway of working upon the generous impulses and religious instincts of woman, which would result in political if not social and business ostracism of the minority.

I wonder, gentlemen of this committee, how far that feeling is shared with the non-Mormon element of this Territory. It is a question which produces the profound thought in my mind, I wonder to what extent that feeling is shared by the non-Mormon element of this Territory.

I supposed that when we divided upon party lines, and agreed to bury the differences and bitterness in which we

had come through, that those things should lay dormant, and that we would march hand in hand to a common purpose, looking to the interests of the citizens of our Territory, with a desire constantly in view of placing that star of Utah upon the glorious banner, made more so because it was designed by woman, to take its place in common with the balance of the states of the Union. But if there is a general lurking fear of this nature, we should probe it to the very quick, and if there is anything in it we should recognize it, and if there is not, it should be set aside and let the past be the past.

I am familiar with the history of this people, with the colonizing of this inter-mountain region. From the earliest period of my remembrance, those grand old mountains stand in my vision. My education, if it may be called such, was not acquired in colleges and institutions of learning. It was acquired in this inter-mountain region by the humble fireside after a hard day's work, or in these mountains after the close of the day's rustling with the timber, there, by a fireside upon those broad prairies, after a hard day's march, with only the open canopy of heaven for my covering; the people's sufferings and privations have been my sufferings and privations; their hunger, in early days, has been my hunger, and I know the integrity of their hearts and of their purposes. I know that they have come up through trying scenes of many a nature and of diverse character, until we have reached that point where I was in hopes that the glorious sunlight which has been so long within our vision, sparkling across the horizon, was here at our door; and then to be confronted with such circumstances as we have here, makes me wonder, and it makes me hesitate, and it makes me say, if those things are general, that probation should still be continued. Gentlemen, now I can afford to wait as long as you can afford to wait, until the differences

and bitterness of the past have been buried beneath our feet, and that we have confidence in each other to a reasonable and a proper extent at least. I am willing to say this much, gentlemen of this Convention, and I would be willing to pledge my life, or what is more sacred to me, my honor, that those conditions will never rise, unless it is in the interests of defense. Never. Let me ask, in making selections of delegates to represent the people, whether it be in county conventions, or in territorial conventions, or in constitutional conventions, has there, in any instance, been any inclination on the part of the Mormon people to discriminate in any way against the non-Mormon people? Has it been manifested? You can all, perhaps, answer this yourselves.

Have the Mormon people not been willing to accord, and that cheerfully, a full representation to their non-Mormon brethren. If they had not it has not come to my observation. Now, let me turn the question over. Has there been any disposition, at any time, or anywhere since the division upon party lines, in which our non-Mormon brethren have laid plots, schemes, or sought to devise measures—

Mr. RALEIGH. I wish to ask a question. I would like to ask the gentleman what non-Mormon or Mormon has to do with this question before this Convention? I thought we had come here as democrats and republicans.

Mr. ELDREDGE. I thought so myself. I will answer the gentleman of Salt Lake, and in answer to his question, I will call his attention to the report made upon this question that we are now discussing, and in that is developed a question which I think we should reach a full understanding upon. Turn it over and ask the other element if we are going to so consider it, if there has been any thing on that side, and let them answer that. Let's all answer. Then if we are satisfied that these fears here expressed are not gen-

eral—and let me say right here, Mr. Chairman, the reason that I have attached more importance to it perhaps than I would on other occasions, is because I take into consideration the standing and the ability and the character of the gentlemen that made the report. I suppose they are in a position to know and to understand at least to a reasonable extent, the sentiments of their associates in a political way. I know that I am in a position to understand and to know, and I judge them from my standpoint, and I believe that it is a fair criterion to be governed by. So that if there is nothing afloat to justify these fears and these misgivings, then let us let the past be the past and go on working for a common interest and a common purpose; if there is anything to justify it, let us bring it to the front and have an understanding that we may know in the future where we do stand. I am in favor of statehood, first and last and all the time; providing the conditions are ripe for such a step in advance, and that we can acquire it without sacrificing any principle or any honor. But under no other circumstances, am I in favor of such a measure. I say, let us keep our pledges faithfully, let us fulfill, according to our own declarations, which we have agreed to, and if it is not wisdom, the future will develop that, if it should be wise, then all the better for us; our steps are not like the Medes and Persians; though it may be a constitution and that constitution may be accepted and ratified by the people, it is not to endure for all time; it is subject to improvements and amendments. The power that was in the people to delegate us to create it still remains to delegate people to amend it. And, therefore, I am in favor of the committee's report, and shall vote against the amendment.

Mr. EVANS (Weber.) Mr. Chairman, and gentlemen of the committee: in the language of the great statesman, some-

what paraphrased, I will say, sink or swim, live or die, survive or perish, I am for equal suffrage. During the days of debate upon this question, conflicting views have arisen among our delegates, and it is well enough after the storm of discussion, to pause a moment and understand where we are. As I understand the question before this committee, it is this: first, is it expedient that at this time we should insert a clause in the Constitution of our new State giving women an equal right with men in the civil affairs of our government; and second, will it degrade women and unsex them?

I will discuss the first briefly, somewhat in a line in reply to the distinguished gentleman from Davis County. He has expressed many admirable thoughts, but, gentlemen, to my mind, although he has discussed the question of logic, we shall see whether, in the light of the facts, it be logical or illogical. Some six or seven points have been made in their turn, all of which are expressive of a fear of endangering statehood for Utah. Woman suffrage is one, the fear of taxation another, the subject of prohibition another. The fear of an element in this Territory which exists in their midst, with respect to the old condition of affairs, is another. And so it is. What is it all when it is summed up together? It is a fear that Utah's statehood may be defeated. Gentlemen in eloquent terms declare that it is courageous to stand single handed and alone, an admirable and eloquent thought indeed; but gentlemen, is it true? I maintain that the courage in the discussion of this question is upon the part of those who are here insisting upon the right of woman to take her part in the political concerns of the government. Holland, Sweden, and Australia and Austria, and three of our states, give women suffrage either in whole or in part. In the nations first named, property classification alone is required, and in some thirteen

other states, I believe, partial woman suffrage is given. Aside from these cases and localities, women have never exercised the right of franchise equal with men. The prejudices of the human race are against it and have been for ages past. Since the time that it was written in holy writ, that the desires of the wife should be to her husband and he should rule over her—from that time to this that scriptural command has been used against woman in the exercise of her rights of suffrage, in the civil affairs of government. Does that mean that which gentlemen claim for it, that man shall rule over woman in a political sense? Does it mean that man shall tyrannize over woman? Does it mean that she shall not have equal rights with man in administering the government to whose laws she is as amenable as men? I contend that no such construction can be placed upon it. Gentlemen of the committee, the cause of these prejudices, ages after ages, has been transmitted to us, and naturally we have prejudices against extending this right to woman.

Free thought better than the throne? Certainly it is; but, gentlemen, in our system of republican government the voters at the polls are the kings, and the people who occupy the throne, and the officer, is the servant of the people. If, then, it be true that in republican government and in theory, men are the kings and the officers are their servants, why not also elevate woman in the same sense to the throne to which she is entitled? I would rather give a free expression of thought upon this question, although it be unpopular, than to occupy a throne. It is the unpopular side of the question we are taking, gentlemen, and the distinguished gentleman is shrewd enough to know it. Get outside of particular localities where we are—the particular circle in which we move, and the sentiment is against the progress we are about to take in this Convention. But

gentlemen say it will imperil the Constitution. Imperil the Constitution, will it? How can it imperil it? The intimation is thrown out that the President of the United States will withhold his signature, or rather his proclamation. What right or power has the executive of this nation to withhold the proclamation, the result of the vote upon the Constitution? The Enabling Act, under which we are here assembled and organized, expressly provides that when the Constitution shall have been submitted to the people, and if it be ratified by their votes, it shall be the duty of the President of the United States to declare the result. It is merely a perfunctory duty upon his part. It would be that of tyranny and oppression, were he to withhold the proclamation. And whatever else may be said of Grover Cleveland, he is one of those men, gentlemen, who has the courage to do that which is right, and I would therefore dispel the idea which seems to be prevailing among the people that it might endanger statehood to insert the section proposed by the committee. I join, however, my views with those who say that if it be right that woman should occupy her place in the government of the new State, I would have the courage to stand by my pledges and by my principles and would relegate myself with the balance of the people of Utah back into a territorial vassalage. Talk about fears when we are doing right! Suppose at the time that we were struggling for independence against the great powers of Europe that Washington would have said, "I fear some danger if we take this important step for liberty?" What did Patrick Henry do when he hurled his slogan at the head of George the Third, "Give me liberty or give me death?"

Why not, then, stand in his place and say to the suffering colonies pleading and demanding their rights of representation in a free government: "I fear

that if we demand it that the gallows might be our lot." Gentlemen, suppose at the time that the colonies were in Valley Forge, that their leaders, they had feared the greatest nation on earth, England, the mistress of the seas and pride of the world, with munitions of war and trained soldiers—suppose we had in those days men standing in holy fear of the great power which they were contending against, to-day, we would have been in a position of dependency; but men did not take that course at that time; they were courageous, patriotic and fearless, as men ought to be in this Convention.

Why, gentlemen of the committee, the only question to consider, is it right? The gentleman from Davis says that the franchise is not right. In legal contemplation it is not. He is right with respect to that matter. He is right when he says that legal writers have laid it down as an indisputable principle that franchise is a privilege; but, gentlemen, that is with respect to the execution of the laws. We are here in a different capacity. We are collected together here for the purpose of laying the foundation of the fundamental law. Cooley says:

These rights cannot be demanded as a right—neither inalienable or naturally; they cannot be made so without constitutional provision.

That is what we are here for; to lay the foundation and to insert in the fundamental law of the land a provision by which woman has the right—the inalienable and indefeasible right to occupy a place in the civil affairs of our government. We are now making the fundamental law upon which all other laws must revolve as mere satellites and limitation upon others, and, if this be inserted in the Constitution, it is as much the right of a woman then to vote as it is the right of any individual to have a jury of his peers when charged with crime. It is as much a right then as any right which was ever taken from the golden casket of liberty. It will

then be one of the jewels set in the coronet of the new State, and she can say, like man, "It is my right and I will exercise it."

But, gentlemen, the distinguished gentleman was very fair—extremely fair; he says whether this provision be inserted in the Constitution or not, he will be found upon the stump, everywhere advocating its adoption. He is so very fair about it, that it seems to me that there can be no objection at all to that. It reminds me about a little story of a jovial fellow once, who had been out a little late; he had taken a little too much spirits for his moral or physical welfare. On the way home it became necessary to hold to the railings of the fence as he staggered along; he came to a gate which opened into a graveyard; swinging around by the gate he soon fell behind an old fashioned tombstone, and fell into a deep sleep. In the morning a funeral procession came into the graveyard, headed by the clergyman reading from the ritual, "Even as in Adam all shall die, so in Christ shall all be made alive."

The fellow roused up and says, "Well, that's a fair enough proposition, sure enough."

Gentlemen, if it is fair—if it is fair to work for this provision in the Constitution, whether it be inserted there or not, it resolves itself back to the same question, is it fair? Is it fair that women should exercise this right which we propose to give them? I might quote another passage of scripture, although I am not much of a divine, which might be applicable somewhat to the gentleman from Davis, and probably one of the things which he might fear. I believe that Isaiah once prophesied that, "as to my people their children shall be their oppressors, and women shall rule over them." [Laughter.]

I wonder if it is that fear that exists in the mind of my esteemed friend that he opposes so strenuously this proposition. But, gentlemen, let me proceed a

little further. Is not it true that this is a reform which we propose to here adopt? If it be a reform, then is not it also true that every reform which has ever been practised or carried on in the history of the world, was carried on by those shining lights of courage? Courage is what is wanted here, and I doubt not but the committee will take the step when the time shall arrive.

I will leave the question of expediency now just for a moment, and I will go into the question of the right of woman to exercise the franchise as well as the man. Gentlemen, as I understand the argument, it is this: that if woman be given this right it will drag her down from the exalted pinnacle of admiration where she is placed in the estimation of man; that it will drag her into the mire of politics; that it will unsex her. If those were true, then I would oppose woman suffrage, and so would every other man. The only trouble about it, gentlemen, is, is the premise itself right? That is the question to consider. I care not now whether you consider the question of platform or not; for my own individual part, I would absolve every man from any party pledge he has made, I would not begrudgingly extend the right of franchise to the opposite sex if it is not right that she should have it, and if I believed it was not right that she should have it, I would cast my vote against it irrespective of platforms. It was once said by Senator Hill, I believe, that political platforms were like the platforms of a car, made to get in on and not to ride on. Some men regard platforms of parties in that light. My distinguished friend says, they are like the shifting clouds in the sky, shifting here and there and everywhere, for the purpose of political gain and advantage. For my own part, so far as our platform is concerned, upon which we stand, I believed it was right when it was passed; I participated in its formation, and voted for its adoption. I

believed then that it was right; I believe that it was right before; I believe that it is right now. But, so far as those platforms are concerned individually, I would absolve any man from them upon this important question. But there is one thing, gentlemen, that we ought to do to be consistent with ourselves, being members of a political party where the representatives of the parties come together, and, in the same convention declare for an important principle. I think that if any gentleman in that party does not believe in the platform, that he ought to make it known. I believe in honesty to his constituents and the people; he should say he cannot stand on it. Not made an issue, so my distinguished friend says. Not made an issue? Of course it was not, simply because both political parties declared in favor of it. There was no chance to join an issue on this question. My republican friends, I give you my right hand of fellowship, and for one I stand here not only for the honor of myself, but for the honor of my party and for the people of Utah. Will it drag woman into the mire of politics? Can it do it? Why, the report of the minority committee is to the effect that women in intellectual attainments are the equals of men. Indeed, their report goes on to say that they are better; but they do not want to drag them into the mire of politics. Let us put the proposition this way, gentlemen, you should oppose woman suffrage, and let us see whether it is logical or not to oppose it. If women are the equal of men in intellectual attainments, and are better in point of morality, why not logically disfranchise men and give women the right to carry on the affairs of this government?

Is it to be argued that the worst element of society is to carry on this government? That is the logical conclusion; but, gentlemen, neither is the case. There are good men, there are

bad women; there are bad men and there are good women; in my opinion, it is a question of what they are by right entitled to have. If they are entitled to this right of franchise, it makes no difference whether a portion of them be good and a portion of them be bad, or whether they all be good or better than men. Will any gentleman say to me that it is degrading for me to walk side by side with my mother to the polls to cast my ballot with her? Would any gentleman insist that it would be demoralizing that I should go with my sister or my wife; that we should consult with each other with respect to the administration of the affairs of government, and make up our minds to vote? Why, gentlemen, think of it, slavery was the real cause of the civil war; it was so stated by General Grant in his memoirs.

This country was racked from center to circumference in the preservation of the Union, and for the purpose of liberating millions of people from bondage and from slavery. A constitutional guaranty was given these people concerning the elective franchise; even the Enabling Act under which we are assembled here to-day gives that class of people the right of the elective franchise. It gives the Indian—aborigines of this country—the right when he severs his tribal relations and is taxed. Under our institution and form of government, the drunken bum in the rut can walk proudly to the polls and cast his ballot whether it be venial or honest. Men charged and convicted of crime have the right to vote, and yet, in the midst of all this, even in this enlightened age and period of time, we say that woman shall not have the right. Gentlemen, is there any consistency in this?

My position is that it will purify politics, that it will not degrade women, it will elevate them, cause them to think and reflect upon the institutions of our

country that we will march on to a higher civilization and a better government.

But, gentlemen, upon this question, when it comes to discussing it upon its merits, I believe that no reason has yet been given why woman should not have the suffrage. If any reason has been given it does not appeal to my mind. Some men say it would endanger the question of prohibition, if women have it, and that is one of the arguments, I believe, used in the minority report. While I am not in favor of prohibition, if women have the right to vote, and if they desire prohibition, why should not they have it? I see that amuses my friend on my left.

Mr. ROBERTS. Excuse me, it was not I who laughed.

Mr. EVANS (Weber). Oh, it is a government of the people. If the people desire to put better restrictions upon that traffic, have not they the right to do it? Would it be in the interest of morality and a better form of government, and a better state of society? Gentlemen, talk about selfish purposes, and about political aspirations. I care nothing about it, but other gentlemen have selfish purposes for opposing the right of women to vote. Gentlemen, upon this question, I believe, upon my honor, that the people of Utah would dishonor themselves were they to deny this right under the circumstances. I vote for the proposition as inserted in the majority report, I would vote until the last vote expired. I would vote for our homes and our futures, I would vote for equal suffrage and in our native land.

Mr. WHITNEY. Mr. Chairman, I have listened with no common interest to what I consider one of the greatest debates which it has fallen to my lot to hear; and I do not rise to contribute my quota of argument because I deem it necessary that I should speak in order to decide this question. It is not so much from a desire to be heard, as it is to respect the wishes and respond to the re-

quests of certain of my friends, that I now take part in this discussion. To me it is battle of destiny that is in progress, and the battles of destiny are won before they are fought. The success of the movement for woman suffrage is a foregone conclusion; and were it not that gentlemen may wish, as I do, to respond to the requests of their friends and place themselves on record in this connection, I opine that not many more would impose on the patience of the Convention.

I have listened enraptured to the eloquent periods that have rolled forth from the lips of the gifted men who have preceded me, and have spoken upon either side of this question. I was particularly charmed with the eloquent remarks of the gentleman from Davis County, Mr. Roberts, whom I not only admire as a gifted man, but esteem as a personal friend—sincere, I believe, in the position he has assumed, and anxious only to defend the right as he sees it. I could not but admire the courage with which he faced a frowning multitude, and withstood the onslaughts of a multitudinous foe. While he was speaking my mind scanned the pages of history in quest of some hero with whom to compare him. I thought of Horatius at the Roman bridge, standing single-handed and alone, beating back the Tuscan legions advancing to attack the Eternal City; and I fain would have compared my friend to that hero of antiquity. But I could not; because Horatius was fighting for freedom, and in my opinion my eloquent but mistaken friend was fighting against it. [Applause].

I went back farther into the past. I thought of Leonidas and his three hundred Spartans, defending the pass of Thermopylæ against the overwhelming hordes of Persians, sweeping down like an avalanche upon his native land. I wanted to compare him to that hero—one of the noblest in history—but again I was met by the reflection that

Leonidas fought and fell in a battle for liberty, and I was convinced that my friend from Davis County was taking part in no such engagement. [Applause.]

Then I remembered a little anecdote—one that is doubtless trite and commonplace to you all. A bull was feeding in a pasture through which a railway track extended, along which an express train was advancing at lightningspeed. The bull got upon the track and tried to prevent the train from passing. He did not seem to know what was coming, and “preferring his free thought to a throne” [laughter], planted himself squarely in the way of the invincible power that came rushing and roaring on. The bull, I say, did not seem to know what was coming, but the farmer, his owner, did [laughter], and with a gasp of astonishment, mingled with admiration he exclaimed: “Well I admire your courage, but d—n your judgment.” [Laughter and applause.]

But I did not like to compare my friend to a dumb animal; he had given convincing proof that he was not dumb; and though there was once an animal that spake [laughter], the property of one Balaam [renewed laughter], it spake by inspiration from on high, so that I could not compare it to the gentleman from Davis County. [Laughter and applause.]

Finally my mind, coming down to modern times, rested upon a scene made memorable in history, and I thought I had at last found the object of my search—a proper subject for comparison. Imagination pictured that eventful day—June 18, 1815—when the allied armies, the representatives of banded nations, stood facing upon the field of Waterloo one bold, independent, desperate man, embodying in his person the imperial despotism from which Europe struggled to be free. During the first day’s discussion of this question, I thought I saw enacted before my eyes the scenes of that memorable occasion. I heard the thunder of the cannon, belch-

ing death and destruction across the narrow valley from mountain to mountain. I saw the French march up the slope and attack the English squares. There were charges and counter-charges. I heard the Prussian trumpet blow, and the patter of their bullets as they fell in the midst of the fray. I saw the Old Guard make its last charge and “foam itself away.” Then the Wellingtons and Bluchers arose; the cry was, “Up guards and at them!” and down the slopes pell-mell rushed the overwhelming, irresistible force of victors flinging themselves upon the vanquished. I had thought of taking part in the action, but remembering what history has to say of those who pursued the flying French, slaughtering for the mere love of slaughter, I could not convince myself that it was my duty to pursue, Blucher-like, with sword in hand, an already defeated enemy. I supposed that the battle was over, that the issue involved was decided; but it seems that I was mistaken. I had not been witnessing Waterloo at all. It was the defeat at Leipsic that I beheld, and the fleeing Napoleon was but banished to Elba, and not to St. Helena. He returned, insisting that he had not been conquered, and entered upon another campaign. Then we had a Waterloo indeed, and all these scenes were re-enacted.

Standing here to-day, not as a participant in the strife, but rather as some wandering Childe Harold, musing upon the battlefield, treading “this place of skulls,” the grave of ambitious hopes and desires, I feel more like moralizing than fighting the battle over again.

There was one thing in the eloquent oration of the gentleman from Davis County that I did not much admire. He may not have meant it, and if he disclaims it, I shall accept his disclaimer. But running all through his remarks was the seeming imputation that all who opposed him and stood with the majority upon this question, in favor of woman suffrage, were actu-

ated by motives less noble and honorable than his own. He alone stood for principle, towering like a colossus in the midst of the debris surrounding him, while we who differed from him were merely indulging in maudlin sentiment, seeking for women's smiles, reaching after laurel wreaths with which, it was intimated, fair hands were waiting to bedeck our brows. I have seen no laurel wreaths distributed. I saw a bouquet of roses yesterday [laughter] standing upon the table at my left (Mr. Roberts' place). I presume it was put there for Mr. Thurman (Mr. Roberts' near neighbor), since he is one of those who have been reaching after such things [laughter], but I noticed that it was Mr. Roberts who walked away with it after adjournment. [Renewed laughter and applause].

I know not what reasons the gentleman has for thinking that his opponents are actuated by selfish and sordid motives. But I wish to say to him, and to all, that because a man "stands alone," in the midst of "the wreck of matter and the crash of worlds," that of itself is no sure sign that he is right, or more sincere and honest than his fellows. I grant you that in most of the great crises of history the minority have been right and the majority wrong. The grandest heroes are generally found among the few. One of our American poets has said:

Count me o'er earth's chosen heroes,—
They were souls who stood alone,
While the men they agonized for
Hurled the contumelious stone,
Stood serene, and down the future
Saw the golden beam incline
To the side of perfect justice,
Mastered by their faith divine,
By one man's plain truth to manhood
And to God's supreme design.

But it is not always so. Majorities are sometimes right, and their voice is then the voice of God. When Sumter was fired on, and the shots discharged at that devoted fortress choed round the world, it was the minority that spoke, and

that minority was in the wrong. But when the great North arose in its might, and buckling on its armor burst like a whirlwind of conquering wrath upon the advocates and supporters of secession, it was the voice of the majority—the voice of Omnipotence that declared: "The Union must and shall be preserved." [Applause.]

And when it became necessary, after ninety years of waiting, to make good the promise virtually pledged by the patriot founders of the nation, and the edict went forth that struck from the wrists of millions of slaves the fetters which bound them, and which had not been removed, notwithstanding the great declaration of freedom, it was the fiat of the Almighty that blazed from the lips of Lincoln, and it was the voice of the majority of the people that said "Amen."

The heroes of romance are always in the minority. The hero of the great epic, *Paradise Lost*, is not the Eternal Father, sitting upon His throne surrounded by numberless concourses of angels; not the Only Begotten of the Father, full of grace and truth; not the archangel, Michael, invincible in battle, with two-thirds of the hosts of heaven at his back. Neither of these is the hero of *Paradise Lost*. It is Lucifer, the fallen, that bold, brave, independent spirit "who dared look the omnipotent tyrant in his everlasting face and tell him that his evil was not good." He is the hero of the poem, the one toward whom the current of romantic sentiment naturally tends. But was he right? Because he stood alone, or with the minority, because he dug his own grave and went down into the depths with the heavens weeping over his fall, was he right or any more sincere than those who opposed him?

Were Lee, Jackson and Beauregard right because they fought upon the weaker side, and, in the eyes of the romancist, are the heroes of our great civil strife? No; let the current of generous

sympathy go out to them as it will, let the romancist choose his heroes where he may, the fact remains that they were wrong, and the Grants, Shermans and Sheridans were the instruments of Providence to put them down. It was the voice of the minority that spoke at Sumter, but it was the voice of the majority that thundered at Shiloh, Gettysburg and Appomattox.

Majorities, I repeat, are sometimes right, and I believe the majority upon this floor are right when they say, we will put woman suffrage in the Constitution; we will strike the fetters from the wrists of our wives, mothers, sisters and daughters; we will grant them the boon already granted to the black man under the pledge of the declaration that "all men are created equal" and that "governments derive their just powers from the consent of the governed;" we will take one more step in the mighty march of human liberty, which has been sweeping down the ages from the dawn of time even until now.

All the arguments against woman suffrage, however plausible, however sincere they may be, are simply pleas for non-progression. The eloquent notes that have been sounded here, while they please the ear and charm the senses, are not harmonious with the morning stars. They are not in tune with the march of human advancement. I stand for progress and not for stagnation. I believe that politics can be and will be something more than a filthy pool in which depraved men love to wallow. It is a noble science—the science of government—and it has a glorious future. And I believe in a future for woman, commensurate with the progress thereby indicated. I do not believe that she was made merely for a wife, a mother, a cook, and a housekeeper. These callings, however honorable—and no one doubts that they are so—are not the sum of her capabilities. While I agree with all that is true and beautiful

in the portrayals that have been made of woman's domestic virtues and the home sphere, and would be as loath as anyone to have her lose that delicacy and refinement, that femininity which has been so deservedly lauded, I do not agree that this would necessarily follow, that she could not engage in politics and still retain those lovable traits which we so much admire. I believe the day will come when through that very refinement, the elevating and ennobling influence which woman exerts, in conjunction with other agencies that are at work for the betterment of the world, all that is base and unclean in politics—which when properly understood and practised is as high above the chicanery of the political trickster as heaven is above hades—will be "burnt and purged away," and the great result will justify woman's present participation in the cause of reform. It is not a sufficient answer to sneeringly inquire, how all this wonderful improvement is to be brought about? Even folly may ask questions that wisdom cannot answer. Reformers always build better than they know. It is Providence that directs their labors and guides them to their result. It is woman's destiny to have a voice in the affairs of government. She was designed for it. She has a right to it. This great social upheaval, this woman's movement that is making itself heard and felt, means something more than that certain women are ambitious to vote and hold office. I regard it as one of the great levers by which the Almighty is lifting up this fallen world, lifting it nearer to the throne of its Creator. What matters it if in the process some corrupt institutions perish, some antiquated errors are set aside, some narrow notions destroyed that are held by those who assume to know already what is the acme of woman's civilization and refinement? Let the fittest survive. What have we to fear? Let truth and falsehood grap-

ple. We will crown the brows of the victor and say: "You were worthy to survive."

Much has been said of the subversion of the domestic empire if woman takes part in politics. She cannot tamper with its filth and not befoul herself—she will not lift it up, but it will drag her down, we are told. My eloquent friend, in one of his most beautiful similes, spoke of two rivers, the Mississippi and the Missouri, one clear and sparkling mingling its pure waters with the turbid tide of the other, and in answer to the hypothetical argument that the muddy stream was never so muddy afterwards, he replied: "No, but neither was the clear and sparkling stream ever clear again." And there he left it. He did not tell you that those streams, those blended rivers were on their way to the ocean, where all that was muddy and unclean would sink to the bottom where it belongs, while all that was sparkling and clear would mingle with the limpid tide of the "self-purifying, unpolluted sea"—"the image of eternity, the throne of the invisible." [Applause.] Who pretends—not I—that man of himself, or that woman of herself, is conducting this great march of progress? There are some men who recognize an overruling Providence, a divine plan and purpose, as broad and as pure as the ocean, and into which all the rivers of human thought and action run. Whatever they may be before, they ultimately blend with and subserve that divine purpose, swelling the success of the perfect plan into which they flow. Having passed through that, rest assured they will be made pure.

When Stephenson built his first railroad, inaugurating the great improvement that has since revolutionized the world, he was compelled to cross a miry marsh, an almost bottomless pit, into which tons upon tons of solid matter were thrown before the roadbed at that point could be constructed and the

track laid thereon. But that roadbed to-day is as solid as the eternal hills, and along that track, covering that once miry marsh, now speed triumphantly the trains that bear the commerce of a nation. So shall it be with the work of political reform. Politics is down in the mire, where great reforms are oftentimes obliged to begin their work, but the future shall see arise upon the sunken foundation walls of beauty and towers of splendor that shall glitter with the glory of the skies. It is only by descending below all things that we can hope to rise above all things.

I take the ground—notwithstanding all that has been said upon this floor and elsewhere—that the elective franchise, or the underlying principle thereof, is a right, an inherent, God-given right. It existed before governments were formed, before constitutions were heard of. It does not depend upon ink and parchment. The doctrine that governments derive their just powers from the consent of the governed, was true before the immortal Jefferson blazoned it with pen of flame. It was true ere the morning stars sang together, ere the sons of God—ay, and the daughters of God—shouted for joy over the birth of the infant world. "Men are more than constitutions." "Before man made us citizens, great Nature made us men" and women, with rights inherent, God-given, which governments cannot confer, especially a government which possesses no power but what it derives from the people. The right to consent to be governed is such a right, and it is the right embodied in the elective franchise.

It has been claimed that the declaration in Genesis concerning woman, that her desire should be unto her husband, and he should rule over her, is no part of the curse pronounced upon her, but simply the divine arrangement respecting the mutual relations of the sexes. Grant it; what then? Man rules over

woman, but it is her desire that he should do so. Hence she consents to the arrangement, and exercises her inherent right in so doing. Is it unreasonable to suppose that she was consulted before that arrangement was made?

She votes "yes" or "no" upon the proposition as to who shall rule her in the household, when she accepts or rejects an offer of marriage.

The gentleman from Sanpete (Mr. Lund) would find that a woman could say no, and mean it, if he were to take the advice of the gentleman from Utah County (Mr. Boyer) and propose, with all his anti-suffrage notions, to one of that gentleman's daughters. [Laughter.]

Woman exercises this right in the family. Why should she not exercise it in the state? Is not the family the type of the state? Man is truly the head of the woman, as Christ is the head of the church, but not without her consent. Even the church has the right to consent as to who shall preside over it.

I am not sure but the gentleman from Davis County believes as much as I do in the right of women to vote under certain circumstances. On the 6th of April, 1830, a little band of disciples assembled at a farm house in Fayette, Seneca County, New York, and organized the church to which many of the gentlemen surrounding me, and I myself, belong. It is a popular idea that only six were present when that church was organized. This is a mistake. The laws of the state of New York required that at least six persons should compose a religious society, and six men were known and named in this organization; but they were not the only ones who took part in the proceedings. Forty or fifty persons were present, including a number of women, and before the first thing was done, before the founder of the church took his place at its head, he asked that little congregation if they were willing to accept him as their spiritual leader, and if they

were willing to be organized as a religious body. The record says: "Unanimous consent being given, the purpose of the meeting was effected." Women voted there as well as men.

Many years later, on the banks of the Mississippi, the founder of this church called together the women of his people and said that the time had come—for he had turned the key—when woman should take her place beside her brother man and participate more fully in the affairs of the church government. The object of the meeting was to organize the women of the church. They were to have their presidents, secretaries, and separate though subordinate organizations, over which women were to preside, as President Smith and his counselors presided over the entire body. From that time until the present, these institutions have existed, and the doctrine of common consent has prevailed among this people. Twice a year they meet in their conferences and vote upon the various propositions laid before them, vote with the uplifted hand, and the women vote as well as the men. I bear in mind a certain occasion when I held up my hand with peculiar pleasure to signify my assent to the selection for a high ecclesiastical office of my esteemed friend from Davis County, and I noticed, as I looked over the vast sea of faces composing that congregation, that probably two-thirds of them were women—holding up their hands to elect a man who, upon the floor of this Convention, says that women ought not to be permitted to vote. He declares them incapable of independent action, and thinks they ought to be satisfied with being represented at the polls and in public life by their husbands who vote and hold office.

Our friend is not only an accomplished orator, he is a talented author as well. He has written books, the object of which was to show—what I have also heard him thunder from the pulpit with as much earnestness and eloquence as

he has here displayed—that it is the right and privilege of every soul, man or woman, to answer for itself before the bar of God. I never heard him proclaim, till now, that woman, be she wife or maid, was not in a position to act independently, either in church or in state. Why, the very genius of his religion teaches to the contrary. Women are free, as they ought to be, and no man by plunging into hell, can drag down with him the faithful and pure wife who stands at his side. She is a free moral agent, and can either ascend to heights of glory or descend into abysses of despair, let him take what course he may.

A word here in explanation, lest some one should say that I am advocating a union of church and state, the blending of religious and political functions. I am not. I advocate no such idea, though I believe that politics owes much to religion. What of the Mosaic law, for instance, the foundation of modern jurisprudence? All down the ages the church has taught the state good and correct principles, and it has adopted them. Whence came our idea of republican government? Was it not suggested, in part at least, by the Calvinistic principle of church government—the right of the congregation to elect its own ministers, instead of having them appointed by the pope of Rome or by kings and emperors? That idea sprang from Calvinism, permeated Switzerland, France, Holland, Great Britain, and was brought by the pilgrim fathers to the shores of the New World. There is little doubt that it helped to give form and color to the institutions of the American Republic.

My argument is that we can afford to follow a good example, and accept truth from whatever source it comes. If the church can afford to be liberal, and not only recognize but permit the exercise of woman's inherent right to a voice in the election of those who rule her, why cannot the state afford to be

equally liberal? Why deny to her in the state what she enjoys in the family—which, I repeat, is the type of the state—and what the church, the elder sister of the state, is willing she should enjoy?

I am speaking, not to democrats, not to republicans; I am not speaking as a partisan for party ends. I am speaking as an American to Americans; not to that class who, it is said, fled from the tyranny of the old world that they might worship God according to the dictates of their consciences and compel everybody else to do likewise; but to descendants of those who fought and bled for freedom and bequeathed it as a sacred legacy to mankind; being willing that others should enjoy the same rights that they secured for themselves. I hope I am speaking to lovers of liberty, to champions of progress, who comprehend and appreciate the divine mission and destiny of their country—America.

—A land of liberty,
A home of peace and human brotherhood,
Where men should equal stand, a sovereign host,
Nor owe to haughty birth their high degree;
Where merit's star o'er mammon's might ascend,
Where brain and brawn should blood and birth outweigh,
Where law should liberty and life defend,
And tyranny be traitor to the realm;
Where right, not might, should monarch rise and reign
O'er all that breathed or blossomed 'neath the sun;
Where, linked in chain of loving unity—
The only chain that freedom's land could bind—
A sisterhood of empires, hand in hand
Timing their steps to truth's triumphal tread,
Might march to music of Millennial strains;
Glad harbinger of still more glorious state—
The welding of the nations' world-wide chain,
With freedom's ensign waving over all.

This land, which God gave to our forefathers, was, as I believe, the predestined site of a government that was expected to set an example to all the

world; standing as a goddess in the midst of the earth, holding aloft the torch of truth to kindle and illumine the nations. It was founded for the many, not merely for a few, and no class should have a monopoly of its blessings.

Is true freedom but to break
Fetters for our own dear sake,
And with leathern hearts forget
That we owe mankind a debt?
No; true freedom is to share
All the chains our brothers wear,
And with heart and hand to be
Earnest to make others free.

This was written for the black man; but why not apply it to the white woman, and the black woman? [Applause].

America, the champion and exemplar of freedom! How can she go forth to evangelize the nations, to liberate the world, with gyves upon her wrists, with half of her own children in chains?

And now a word, which I do not mean to be offensive, in relation to a remark made by my friend, which I was somewhat shocked to hear. It shows to what desperate straits he was reduced, that he must use an argument which he himself was compelled to discredit and cast into the waste-basket. He only gave it time to be noted down in the hearts and minds of those whom he wished to convert, and then he discarded it, for he felt ashamed of it; and I must add that his shame did him more credit than his argument. He said, in reference to what he termed an "invasion" of ladies, who came into the Convention in response to the hearty and wholesouled invitation of its members, extending to them that courtesy; that if they could have heard the gibes and jeers that he had heard concerning them, they would have hung their heads in shame. Some one had said to him, quoting:

They are neither man nor woman,
They are neither brute nor human,
They are ghouls.

Let me emphasize what I have already stated, that the gentleman only repeated what had been quoted and applied by another, and that he himself discredited the application. He avowed—and I believe him—that he has the highest respect for these same ladies. But it seems to me that he could have shown his respect for them far better by refraining from the repetition of the slanderous saying, than by giving it utterance upon this floor.

Who are these ladies that have presented their petitions here, who have listened with the greatest respect to the remarks made by the honorable gentleman and by others who have spoken? They are intelligent, high-minded women, Mormon and Gentile, among the purest, noblest and best of the land. [Applause.] They are here to listen to this debate because it affects them to the heart's core. They are interested in the discussion of a question fraught with so much for woman and her cause.

I do not ask for their smiles, their laurel wreaths, their bouquets of roses. I ask only to be considered sincere. I speak from a heart where the conviction of truth sits enthroned as regards this question, and I thank you for bearing with me so long and permitting me to voice the sentiments of my soul.

I believe in woman suffrage. I have always believed in it. I look upon it as another step, another impulse of humanity toward perfection. Its success is assured. Victory, anticipating the inevitable, has always perched upon its banners. Its course cannot be staid. As well try to check the mountain torrent, or the mighty waters of the Mississippi, thundering onward to the sea. Its triumph is decreed. Its destiny is fixed. It is the march of human liberty, the pageant of eternal progress; and those who will not join it must stand aside and see the great procession sweep on without them. [Applause.] And if this Convention fails to act favorably

upon this proposition, some future Convention will so act, and gazing upon our record, with reproach, will crown her brows with the glory we have denied. [Applause.]

Mr. BOYER. Mr. Chairman, I now move that the committee rise and report progress.

Mr. BUTTON. Mr. Chairman, I move that we take a recess until 2:30.

Mr. BOYER. Mr. Chairman, I do not desire to insist on this matter; the object I have is this, to rise and report and then take an adjournment until Monday. I desire to move for an adjournment until Monday at 10 o'clock. I will not insist. I will withdraw the motion.

The committee then took a recess until 2:30 o'clock p. m.

Afternoon session.

Mr. SQUIRES. I had not expected, Mr. Chairman and gentlemen of the committee, to take up any of your time in discussing the subject now before the Convention. I believe with the distinguished gentleman from Davis County, that the matter was fixed before any debate was had upon this floor, and in the interest of economy of time, I should have been glad if we could have gone to a vote without this display of oratory which has charmed every member of the Convention. But I have noticed that in the debate thus far, there are very few who come from the anti-Mormon side of the community of Utah, that have been heard upon this subject, and it is for that reason that I want a little of the time of the Convention, representing that side of the house. There is another reason why I deem it useless to make any remarks here; the reason given by the gentleman from Davis in his speech of the first day, that it was useless to reason with men who were already convinced and who had already reached a conclusion. From the pertinacity with which the minority of this Convention have pushed the debate

upon this subject, it is evident to my mind that they are as absolutely convinced and have their minds as well made up as have the majority of the Convention, and therefore, I believe that arguments addressed to those gentlemen will be as useless as they deem their arguments are on the majority of the Convention.

I had supposed, Mr. Chairman, that after the eloquent speech of the gentleman from Davis, (Mr. Roberts,) on yesterday in which he magnified and glorified the women of Utah, pointing out to them what their proper sphere of usefulness in society should be, that the representatives of that womanhood who were present in this Convention would join hands and say, "Gentlemen, we relieve you of your obligation, we withdraw the petition which we have sent to this Convention, we are all convinced that the suffrage should not be extended to woman, and we would not embarrass the great question which is now before the Territory, the question of statehood, by cumbering up the Constitution with an article of this sort." But, to my surprise, sir, the ladies universally and unanimously disclaim that they have been converted by the eloquent speech of the gentleman from Davis. I therefore hold myself just as much bound as though the magnificent argument had never been uttered. I do not agree, Mr. Chairman, with some of the gentlemen who have spoken on this floor in regard to the duty which we owe, the obligations we are under to party platforms. For my part a party platform is not to me what the distinguished gentleman from New York City said, "something to get in on but not to ride on." I believe, sir, that the platforms at least of the republican party mean what they say. There is no useless timber in the platforms which that party constructs. I was a member of the convention at Provo, although I was not on committee on resolutions, and had no hand

or voice in framing that declaration of principles. I gave my hearty adhesion, and during all the campaign that followed, wherever I went through this county, speaking in behalf of the republican party, I took that platform for my text, and for my guide, and I did promise the women of this county that if the republican party should be in a majority in this Convention the women of Utah would be honored by that Constitution, and suffrage would be granted to them as we had promised. I am not in a position, sir, to take the back track, I cannot reverse myself, I stand on record for, and however much I desire or might desire to waver or to weaken upon this proposition, after it has been reinforced as it has been in this Convention, by petition after petition coming from county after county, petitions from those who are to be benefitted by this proposition I cannot withdraw. I believe that these women know what they want, and if they are as our minority committee tell us in this report upon this proposition—if they are better than men, if their instincts are truer, if they are intellectually superior, as gentlemen on this floor have been willing to say, then, sir, I am willing to believe that the intelligence which they possess has taught them that the very best thing that the womanhood of Utah can have is the ballot, and I am ready to accord it to them.

I remember, sir, that after the convention was held at Provo, and after this plank had been written in the republican platform, that the gentlemen who represent the other political party in this Territory pointed out to us how utterly meaningless it was. Gentlemen have told me these two days, upon the floor of this Convention, that I ought to know that the party did not mean anything when they wrote that plank in their platform. I do know this, sir, that the democratic party were so much afraid of that platform that when they

met in Salt Lake City a few days afterward and wrote out their own declaration of principles that should be a guide for their speakers during the campaign, they attempted to improve upon that plank.

I was present in that convention as an interested spectator, and I remember the scene that was enacted there. I remember that the ladies who belonged as members of that convention were so eager in support of this proposition, that they, themselves, went upon the stage and thanked the convention, pointing out the difference in the meaningless plank in the Provo platform, and this broad and just proposition which had just been adopted by that convention; and all through that campaign, sir, from the beginning to the end, in every part of this Territory, the effort was put forth by the democratic speakers to show the people that the one meant everything and the other meant nothing. Well, my republican friends in this Convention, are you ready to tell the people of this Territory that our democratic friends were right? Are you ready to tell them that you did mean nothing when you put this plank in your platform? If you are, then vote that way. Myself, I believed in it from the time it was put in the platform until the election was over. Let me ask you, gentlemen, supposing at Provo you had not indorsed equal suffrage for women; and suppose that this same scene had been enacted in Salt Lake City, do you believe that the republicans would have been a majority of this Convention? I do not believe that there is a man within the sound of my voice that believes it. Why not? Because the people of this Territory wanted woman suffrage, and if the members of my own political party who are to-day criticising and finding fault with those who stand upon this floor in defense of this proposition, who change their mind upon the subject—there have been twenty-six legislative

days here in which they could have presented petitions to that effect, but up to the present time, so far as I know, not a single petition or remonstrance has reached this Convention. Therefore, gentlemen, I feel just as much bound to that platform to-day as I did when it was adopted.

Gentlemen have said that we are starting off in this Territory upon new lines, we are just beginning to teach the people politics. Well, shall we teach them as the first lesson, that it is wise and prudent to be dishonest in politics? The distinguished gentleman from Davis County told us the other day he was not bound by the platform upon which he stood. As I understand, he was nominated while he was absent from the Territory, and that at no meetings held within in his own district was a single word uttered upon this subject.

Mr. ROBERTS. That I attended.

Mr. SQUIRES. That is as I understood it, and that he continued to be the standard bearer of the democratic party, from the southern line of the Territory to Idaho, and that in no meeting was this question discussed in any manner. If I am wrong, the gentleman will correct me.

Mr. ROBERTS. Your are right in that.

Mr. SQUIRES. What wonder, then my friends, what wonder that the democratic party is sitting to-day in sackcloth and ashes, and that Frank J. Cannon is the delegate in Congress from Utah. Such a violation of the known will of the people was sufficient to account for the majority which our candidate received. I tell you, gentlemen, it pays to be honest in politics as it does in business. For one, I am not content that the democratic side of the house shall receive all the credit which may come to the men of Utah for conferring this inestimable blessing upon woman. I am not content that all the influences that are brought to bear upon this subject in this Convention shall come from

the distinguished speakers of the other side, and I remind you, gentlemen, that the majority of this Convention is composed of republicans; I remind you that without the votes of those gentlemen from the republican side of the house, this proposition cannot pass. I call attention to it now because there is a coming campaign in which the credit of this proposed action will be discussed. I am willing to give to the opposition all the credit that they deserve, and I was only sorry while petitions were coming in here daily, from the women of this Territory, they chose as means of introducing them, in almost every instance, gentlemen from the minority. It looked as though they had some expectations of the good faith of the men of the other side of the house, and I assure the ladies who are present, and who are representing the woman suffragists of this Territory, that they have almost to a unity prevailed on the republican membership of this Convention, as you will discover when you come to a vote.

The fear is expressed, Mr. Chairman, that it is a dangerous thing to give to these women, who are so intelligent and so far superior to men, this right of suffrage, because it may take us back to the old contentions. I say to you, gentlemen, do not stir up these smouldering embers; let the dead past bury its dead. Let us put behind us all that is in the past. Let us as we start in for statehood remember that we are citizens of great State of Utah, with its best interest at heart, and stop all this talk about a denomination of any body in this Territory. I have not been so long a resident as some of the gentlemen here; I came to the Territory just as you were reaching the crisis of this great question that had divided the people. I never could work up a great deal of enthusiasm for the liberal party. I had not been here long enough for that, but I tell you that I believe solemnly that when the division came between the republican and demo-

cratic parties and men who had formerly belonged to the people's party, and who had formerly belonged to the liberal party, finally divided upon those national lines, I believed in the interest and the integrity of that movement, and I believe it still. If there had ever been fetters of any sort placed upon the minds, upon the hearts or upon the consciences of men in this Territory, I believed that that manifesto and the proceedings which followed it after they released those men from bondage, and when a man who had been a slave had once been made free, there is no power on earth that can put the fetters upon him, and if those men are free, if they are politically free, if they are politically honest, as I believe them to be, will they stand quietly by and see the dominant church or any other authority interfere with ultimate freedom—the absolute freedom of the female members of their household? I believe not.

I noticed the other day that in the Wisconsin legislature, the question of equal suffrage for women was being discussed.

On the 27th of this month, in the senate, after a two hours debate, a bill was laid upon the table by a vote of 18 to 14. I just call your attention to that for two reasons: first, to show you the growth of the sentiment in those old states upon this very question; and secondly, to remind this Convention that very likely the legislature of Wisconsin is waiting to see what Utah will do. This matter has been laid upon the table. I have no doubt, sir, that when it shall have been wired across the country that the Utah State Constitution has adopted an article giving the suffrage to women, that immediately that matter will be brought from the table in Wisconsin and passed. I believe it is our duty to set that example to our fellows at Madison.

There is another reason, Mr. Chairman, why I want to vote upon this measure. There has been some refer-

ence made to a caucus that was held the other night by our side of the house. I was president at that caucus, and as has been said there was nothing in it that was binding upon any gentleman present. Every man was absolutely free to vote as he pleased when he left the caucus; no vote was taken upon any matter pertaining to this subject, but there were several gentlemen from some of the southern counties who made the alarming statement to us that unless this was put into the Constitution, they would be absolutely afraid to go home. [Laughter.] Now, gentlemen, I don't want to send anybody adrift, an outcast upon the face of the earth, for doing his duty, and if there were no other reason why I should vote for this proposition, it would be that my friends from Garfield County and from these other counties might safely return home at the close of this Convention.

My distinguished friend from Summit, this morning, making a speech against this proposition, assured us that he represented, as I understood it, 1200 families in Summit County, where there were no woman suffragists. Well, if he represents that kind of a county, I don't wonder that he spoke the way he did, and I do not wonder that he is going to vote the way that he indicates that he will vote. I do not come from such a county. I do not come from such a district. The district which I represent is the county outside of Salt Lake, right here at home, and I am afraid from the experiences that I had during the campaign, that if I had said a word in the campaign against the equal right of women to vote, some other gentleman would be occupying my seat in this Convention. I must, therefore, be consistent.

But, the proposition is made that it would be wise and perhaps fairer than what we are doing, if we submit this matter again to the Legislature. Give them an opportunity to pass upon it. While, at first thought, gentlemen, one

might think that that would be wise, I point the gentleman to the condition of affairs that would then confront us. Two great parties in the field, each seeking for preferment, each seeking for the votes of the people; would there be any changed condition from what we had last fall? Would the republican party go into a convention and admit a clause giving women the suffrage? Would the democratic party do it? We should just simply be back in the conditions that we found ourselves during the last campaign. We fight to fight over again? No gentleman, unless it be my friend from Davis County, would have the temerity I believe to stump this Territory against this proposition. Indignant womanhood of the Territory would rise and protest, and for my part, if that was going to be an issue in the campaign, I, and if the party that I represent did not put it in the platform, I should have to stay at home.

I see nothing to be gained, therefore, by relegating this thing back again to the people. I believe that we come here clothed with the full power. I believe that we come here with almost the unanimous wish of the people of this Territory to put this very article into the Constitution, and for that very reason, Mr. Chairman, it will receive my vote.

Mr. ROBERTS. It is not my purpose, sir, at this stage of the discussion to again enter into a discussion of the main proposition, but simply to ask a privilege of the house. I think, sir, that it was conceded that in consequence of my relationship to this discussion that I ought to have the privilege of closing the debate, and, therefore, I wish to ask that when all the members who desire to speak upon the proposition have spoken, that the remaining time that was given to me, or so much of it as I may think necessary to use, shall be devoted in drawing to a close this debate. There is a circumstance,

sir, that will perhaps justify the request that I am going to make, or do make now to this committee. The courtesy that has been accorded me on this floor, and the patience with which I have been listened to through two rather long speeches—unless modesty would require that the look upon that is sufficient—but there is a great probability, sir, that this next speech of mine will be the last that I shall make upon the floor of this Convention.

I have received a dispatch signed by the democratic committee of Davis County this morning, saying, "We must ask you to cease opposing woman suffrage or resign. Party pledges are sacred and must be kept." I presume, sir, that will be a grain of comfort to the democrats upon this floor, for the reason that they have thought that my position on this subject has endangered their party integrity.

To this dispatch I have this afternoon sent the following reply, "You must do what you think proper, I shall not change my course." As soon as it can be made known to me through the agencies of the democratic party in Davis County, that my constituents make this request, and they will point out the method by which I can make my resignation, I shall very cheerfully do so and bow to their wishes. It is for this reason, Mr. Chairman, that I shall ask this committee the privilege of speaking in the close of this debate.

Mr. KIMBALL (Weber). Mr. Roberts of Davis County has already exhausted his time; it is only by the unanimous consent of this committee that he can speak. I now move that it be the sense of the committee that the gentleman from Davis County, Mr. Roberts, shall close this debate, and that he be limited to one-half hour in the close.

Mr. HEYBOURNE. I desire to make an amendment to the gentleman's motion, that Mr. Roberts be accorded one hour in closing the debate.

Mr. KIESEL. I move that he may have all the time he wants. [Laughter.]

Mr. KIMBALL (Weber). I accept the amendment of Mr. Heybourne, that it be limited to one hour.

Mr. DRIVER. Mr. Chairman, my friend Mr. Kiesel, from Weber County, moves that Mr. Roberts be accorded all the time he wants. I want to make a motion that all the time Mr. Roberts occupies, over one hour, of this Convention, be paid for out of the pocket of Mr. Kiesel.

Mr. KIESEL. Mr. Chairman, I will most cheerfully pay for all that time.

Mr. CREER. As a question of personal privilege, I wish to say this: While I accord the gentleman all the courtesy that he can ask for, at the same time, I believe that at least one party ought to have the opportunity upon the affirmative side of this question, that is my colleague from Utah County. But there is another thing that I wish to refer to and that is this: That quite a number of the members of this committee desire to return this afternoon, some of them have already gone home, and it seems to me that the time of those speakers, with due respect to the eloquent gentleman, should be so measured out that we may reach a vote this afternoon. Now is the opportune time; therefore, I would, as an amendment to that, move after the half hour that is taken by the gentleman from Davis County, that Mr. Thurman, my colleague, also have the privilege of occupying a few moments.

Mr. VAN HORNE. Mr. Chairman, I shall not detain this Convention more than one moment—only long enough to say that I agree with the minority report in principle, that I agree also with that report as to expediency or lack of expediency of presenting this question in the Constitution where it will probably require, in case a change should be necessary, a vote much larger than would be required to insert it into that document. For that reason, whatever

the political fates may be that will overtake those who vote according to their real convictions on the question that is before this committee, I expect to vote for the minority report; with that statement I will give all of my time to Mr. Roberts.

Mr. JAMES. I want the amendment read and then I want the privilege of making a remark.

Mr. THURMAN. Mr. Chairman, permit me to say a word, not on the question, but rather in the way of personal privilege.

Mr. JAMES. That is what I arose to, but if you do not intend to take up the time so but what I can make a little explanation, I will give way.

Mr. THURMAN. I will only take about two minutes; and in this particular, Mr. Chairman, I speak in behalf of the democratic party on this floor—the first time that I have thought there was any necessity for bringing in party politics. I do not know why my friend from Davis County has thought it necessary to state here before this Convention that the democrats on this floor will be glad to know that he is called upon to resign. He has never heard that from any democrat, in my opinion. We regret that his convictions have been such that he has been unable to go with the body of democrats upon this question, but I will say to him we will be more loath than he can imagine to part with him. He is and has been a pillar of strength in the democratic party, and if he leaves the party, he will go because he wants to go, not because the democrats want to get rid of him.

The CHAIRMAN. The question is now on the amendment that Mr. Thurman be allowed to follow Mr. Roberts.

Mr. THURMAN. I do not wish to follow the gentleman from Davis County, he is entitled to close this discussion; I have no request on my own behalf, and do not desire that my friend shall make it.

Amendment withdrawn.

The CHAIRMAN. The question is then on the motion of Mr. Kimball.

Mr. SQUIRES. Why do the gentlemen of this Convention, in view of the fact that Mr. Roberts has sent in his resignation and will not have an opportunity to speak to us, do him the discourtesy of cutting him off in an hour? We know he does not fairly get to work in an hour. We want his best effort. I am in favor of giving him all the time he wants, and let's listen to him.

The CHAIRMAN. The question then is on the motion of Mr. Kiesel from Ogden, that he have all the time he wants.

Mr. KIMBALL (Weber). When I made the motion that Mr. Roberts close this debate and be limited to one hour, I did not know he had resigned, and I am very sorry he has; I do not think there is any necessity for that.

Mr. ROBERTS. Would you let me correct you? I have not resigned but I promise to do so the moment my constituents shall indicate clearly that this is their wishes.

Mr. KIMBALL (Weber). Well, if your constituents ever indicate that, they are bigger fools than I think they are. [Laughter.] Therefore, I am in favor of giving Mr. Roberts all the time he wants. I am willing to sit here from now until next Saturday morning, a week from to-day, to listen to Mr. Roberts on this proposition, because I think he is right, and so far as I am personally concerned, I stand behind Mr. Roberts, and I will support him all the way through.

Mr. MURDOCK (Beaver). Do we understand when he takes the floor that cuts off all further debate?

The CHAIRMAN. That is as the chair understands.

Mr. CANNON. I would like to offer an amendment, that we do not rise until Mr. Roberts gets through.

Seconded.

Mr. GOODWIN. If it is in order I

move a vote of confidence in Davis County.

Mr. KIMBALL (Weber). I am opposed to the amendment of the gentleman from Salt Lake. We are now close on the middle of the afternoon, there may be several gentlemen here who may want to speak on this question before Mr. Roberts reaches it, and I am opposed to shutting him off by any motion to arise, and think he should have all the time he wants. And, for that reason, I am opposed to the motion of Mr. Cannon of Salt Lake, because his motion is out of order, for this reason that we must take a vote on the amendment just now pending, before this committee finally arises. There is an amendment pending here, that we have to vote on, and, under Mr. Cannon's motion, we will rise without any vote on that amendment.

Mr. CANNON. The gentleman is laboring under a misapprehension. My motion is not to arise at the close of Mr. Roberts' remarks, but my amendment is that we do not arise until he gets through. I feel it is the general feeling among the delegates that we should dispose of this matter as speedily as possible, and give the gentleman all the time he wants. I am willing that Mr. Kimball should sit here until next Saturday if need be.

Mr. KIMBALL (Weber). I am further opposed to the gentleman's motion for this reason, that with the incentive to talk that the majority on this floor have, Mr. Roberts will not reach his speech until about next Wednesday evening, and I do not care about sitting here all that time.

Mr. WHITNEY. I do not think it is a very cogent reason that Mr. Roberts should have the closing of the debate simply because the gentleman from Weber County believes he is right. Neither do I think the motion should pass in this form, that the debate should close as soon as Mr. Roberts gets the floor. I second the original motion

that Mr. Roberts have the privilege of closing the debate, but I shall expect him not to take the floor until we know by some manifestation that there is no one else wishes to speak.

Mr. ROBERTS. That is right.

Mr. KIMBALL (Weber). That is my view of it. I say that Mr. Roberts should not rise in his place until every other man has had his say.

Mr. WHITNEY. I agree to that.

The amendment of Mr. Cannon was rejected.

The motion of Mr. Kimball, as amended, was agreed to.

Mr. BARNES. Matters have assumed a shape in this Convention which I think calls forth some remarks from me as a delegate from Davis County. It may be somewhat presumptuous on my part to take up the time of this Convention after listening to the able oratory with which we have been favored during the last day or two, but, Mr. Chairman, I desire to say a few words in defense of the residents of Davis County—my constituents and the constituents of Mr. Roberts. We are informed this afternoon, that through the chairman of the democratic committee of Davis County, Mr. Roberts is asked to resign unless he takes a different stand from that which he has taken upon the subject of giving the right of suffrage to women. I will say that I exceedingly regret that this step has been taken.

Why, I doubt if there is a man on the floor that respects Mr. Roberts more than I do; he is my personal friend; I accord to him all the honors which have been shown him by this Convention. He is worthy of them, and I think possibly the step may be ill-advised, but, Mr. Chairman and gentlemen, why do the democrats of Davis County take the stand? It is because they feel that Mr. Roberts has taken a stand diametrically opposed to their views and to their request made upon their delegates. I have here a copy of

a letter which was sent to Mr. Roberts a few days ago, and which embodies, I think, the views of the convention which met in Farmington, at which Mr. Roberts, Mr. Call and myself were elected as delegates to this Convention, and if the gentlemen will bear with me I will read it:

Kaysville, Utah, March 26th, 1895.

B. H. ROBERTS, Esq.:

DEAR SIR:—Our attention has been called to the position you are taking in the Convention, regarding woman suffrage, and we are informed, in fact the Herald says as much, that you are looked upon as a leader of the opposition on the floor of the Convention. This position is not in line with the sentiments of your constituents, and further, in the county convention that nominated you, a resolution was presented and adopted, favoring equal suffrage, and requesting our delegates to work for it. Our campaign, locally and territorially, was conducted with this as an important plank in the platform.

In view of these facts, and the further fact that Davis County is so overwhelmingly in favor of an equal suffrage provision in the Constitution, we feel it our duty to ask you to not oppose this suffrage plank. If your convictions will not permit you to vote in favor of it, you might at least, remain inactive in the matter, and thus save our party the humiliation of having their pledges broken.

We hope you will give this matter favorable consideration.

Respectfully,

JOHN G. M. BARNES,

Chairman Democratic County Com.
HENRY H. BLOOD, Secretary.

As you are all aware, gentlemen, the honorable Mr. Roberts gave no heed whatever to this advice from his friends, from his constituents, but has utterly disregarded it. They not being here to listen to his argument, know only what they get through the press as to what is going on here, and it is very evident from what the gentlemen have said that their feelings are worked up to that pitch that they feel that they can no longer endure it.

I wish, in this connection, to state my own position. I either moved the adoption of the resolution or seconded it; my memory is uncertain as to which it

was, but I most certainly, in the convention held at Farmington, endorsed the idea of granting equal suffrage to women and men. Why did I do this? Because I believed it right. I believed that women should have an equal privilege with men here, and that is why I endorsed it.

It is true, as Mr. Roberts has stated, that a gentleman informed him, that objections were raised there to binding delegates. I am the individual who raised those objections. I am the person who told Mr. Roberts this; and why was it? The convention in Farmington was held prior to the convention of democrats being held in Salt Lake City, and, as I there stated, the resolution that was proposed was in very strong language, binding their delegates to the accomplishment of a certain object. I said, gentlemen it may be impossible for them thus to do, and, therefore, I object. It was reconsidered and this motion was passed which I endorsed then and endorse to-day. I went before the people in a few instances in Davis County and I there pledged my word that if elected to a seat in this Convention, I would here vote and use my humble influence in favor of granting the women of Utah an equal suffrage with men. I, too, believe that I am the one referred to as having stated to Mr. Roberts that party pledges were binding upon me, and I reiterate it here gentlemen, that party pledges are binding. What do I care for your politics if there is neither truth nor honor in them? Sweep them to the four winds and give us truth and honor. Do I say this excitedly? I say it firmly, because I mean it, gentlemen. Who taught me to be honorable here upon earth? My mother, a woman. She taught me, gentlemen, the principle of honor, the principle of integrity; she taught me to be true to my word. And could I go back and face my constituents in Davis County, without lifting my voice, seeing that matters have assumed the proper

tion that they have in favor of granting them suffrage? No. Were I to be unfaithful and untrue to my pledge to them, for ever after would I hang my head in shame when meeting the citizens of Davis County. This is how much I regard my word.

What are party pledges, gentlemen, but aggregation of individual pledges? Then, if party pledges must be ignored, individual pledges must follow, and where are we? A worthless set of beings here upon the earth. That is the view I take of this matter. I stand before you to-day pledged to the support of woman suffrage, and while I have power to lift my feeble hand, and to raise my feeble voice, and wag my unwilling tongue (unwilling because of its inability, that is all) to express the sentiments of my heart, I hope ever to raise my voice in defense of human liberty. Would it be in defense of human liberty were I to say to one-half of the population of Utah, you, notwithstanding you are the equal, and, as gentlemen have expressed it here, you are the superiors of man, you, because we have the right in our hands, shall not exercise your privilege? No, gentlemen, we cannot afford it in view of the pledges that our parties have given to the people of Utah; we are in honor bound to grant the ladies of Utah the right of suffrage.

I claim it as a right—as was explained this morning—beautifully explained. And again if our politics, as I said before, have descended to that point that there is neither truth nor honor in them they are fitly illustrated by the muddy stream of the Missouri river. Then, I say, gentlemen, inasmuch as woman is the purer element, inasmuch as she is superior to man, the greater need is there of engrafting into the muddy stream the pure element. If the muddy stream cannot be entirely cleansed it may at least be benefitted; it may at least be palatable and peaceable, and so that we can support it.

The objection has been raised upon this floor that if we grant unto the ladies of Utah equal suffrage it will bring division, strife and confusion into our homes. Gentlemen, I do not think for a moment that this needs to concern you. Think you that our daughters, our wives, or our mothers, will take any greater interest than they have done in the last year or two? I do not believe for one moment that they can. I am blessed with two or three daughters who are pretty well grown; they have taken a lively interest in politics; they are divided in their opinions. Does it cause jars, strifes and contentions in the family? Why, no; we are willing to accord to each other our views. I claim that the views of my daughter are entitled to as great respect as my own. I am willing to accord to her and to one of my sons an equal privilege with myself. They listen to my views; I listen to theirs, and in this way what will we arrive at? At that which is best to do. Gentlemen, in view of these facts, let us unitedly stand by our party pledges. Let us give unto the women of Utah their rights. Will we regret it? No. The ideas that have been brought up here why it is inexpedient, to me are far fetched. To me they are simply facts of imagination. Do I believe if this plan goes into the Constitution, that for one moment the old conditions will be resorted to? No, gentlemen, I have a better faith in the Mormon people than that. I have lived in this Territory for nearly forty-two years, I know somewhat of the disposition, the honor and integrity of the Mormon people. When we yielded to the conditions which were inevitable, we did it in good faith.

I stand here, gentlemen, as the representative of that class, and I say that what we did, we did in good faith, and if ever those conditions are returned, it will not be because of the action of the Mormon people, but because

of the action of those few who doubt their sincerity.

I feel, gentlemen, that I have taken up enough of your time. Undoubtedly my colleague, Mr. Call, he being a representative also of Davis County, will want to say a few words. Now, I will say to my honorable friend, do not resign your position. Stay by it. If it is your convictions, erroneous though I believe them to be, I honor your courage, I honor you, sir, for staying by your convictions, but, sir, I cannot agree with you in disclaiming any allegiance to the wishes of your constituents. [Applause.]

Mr. L. LARSEN. I did not think that I should occupy any time upon the floor of this Convention, because I have had my mind, as I told you—I could have voted upon this question long ago, and I might say here as well as any other time, that to me it is a foregone conclusion. My friends can take it as they please. I have believed in the woman suffrage right for many years. I have lived in this Territory for many years, and while the women did have the right of suffrage in Utah Territory, I was in for it that they should have continued. I only regretted that the Congress of the United States took away from them that right in 1887. So far as the ladies are concerned, I think I can assure them that they need have no fears. They have plenty of stand-bys on the floor of this Convention. That is my honest conviction. All the eloquence that can be brought to bear upon this now against it will have no effect. That is, on me; I have decided on this question and upon its merits too, for many years. I see no reason why that half of our community should not have the right to vote, should not have a right to go to the ballot box with their brethren and cast their votes. I see no reason why this in any manner should lower them in the estimation of mankind, or degrade them in the least.

It has been read to us from the newspapers that women acted in an unmannerly way at a certain gathering at Chicago or New York, or some other place where women have the suffrage or the right to vote. Why, that was not because of this. I think that the ladies can be just as pure because they go to vote with their political brethren at the election day. Why should they not have a right in the say of who shall preside over them? They are taxpayers, many of them, but they are those who oppose it. They argue that they have their husbands and brothers to defend their rights and to vote for them, etc. Well, that is not a reason to me why they should be deprived of the privilege, and I am certainly willing to accord it to them. If it would be any good I would vote with both hands. But the reason I have arisen here is more particularly to refute some statements that were made here yesterday. I tried to get the floor yesterday, but I was not recognized and so I had to take my seat. So far as the ladies from the county from which I hail together with others of my fellow colleagues of this Convention, we represent in the neighborhood of thirteen thousand people, and I can speak so far as the ladies are concerned, in Spring City, that I know they want the right of suffrage, notwithstanding the remark made by my young and esteemed friend, and I might add newly converted into the other side, because of eloquent language that has been used, etc. I do not know—he knows his own reasons and I should say nothing about it. As I see he is not here in his chair, I will refrain from saying very much; if he had been here I should have had more to say. I believe that I would have been willing, as it were, to take the side of the ladies in his own town and even refuted the statement from whence I hail, Ephraim City, but I will not say anything about those, but I will speak in behalf of the ladies of Spring City. I will speak in

behalf of the ladies of Mt. Pleasant. And when I now speak I know what I am saying and speaking, because I have heard their views expressed on many occasions. I know that they ask for the right of suffrage, and to state here that the ladies from Sanpete do not want it, why, I could not go home and face my constituency, if I had not raised my voice upon this floor against such a statement as that.

I almost felt when the remark was made, why, "the people of Salt Lake will think that we are an age behind the times in Sanpete." People did think years ago that nothing could come from Sanpete. I began to think yesterday that we yet were under those old conditions, that we had not advanced any further in the scale of progress, and that we yet stand on the old ground, and say our women, our ladies, our wives, our daughters, and our sisters are so ignorant yet that they don't rise up and ask for their rights among their fellowmen. I tell you it is not so, that the statement was made, and I was asked the question before the young gentleman spoke—I do not wish to cast a word of reflection upon our friend, for I esteem him and love him, but he asked me the question, I only wish he had been here to hear my remark.

Mr. SQUIRES. Send the sergeant-at-arms after him.

Mr. LARSEN. He asked me the question, "Have you got a woman suffrage club in Spring City?" I had to say no. Well, why is the reason that our ladies have been perhaps a little dilatory in this regard? Why is the reason? I will tell you the reason. They put in a plank in the platform at the Provo convention "we favor the granting of equal suffrage to women." These words were the assurance of their political brethren, why we do not need to organize, we do not need to ask them. We have asked, they have granted, and they have said what they will do, we have confidence in them

that they are men of their word; that they will stand by their platform. [Applause.]

That is the reason why the women of Sanpete have not yet organized a political club. They knew that they were men in which there was stamina, in whom there was backbone to stand by their convictions and who could not be turned by anything that might occur. They knew that we were willing to grant to them. I wish it was understood. I am willing to grant to my wife the privilege to go with me to the polls, although she is a democrat. [Laughter.] But we will never quarrel in politics and I fear not the consequences. I have said to her, "I do not want to convince you, or at least I do not want to persuade you; you are perfectly at liberty to keep your views on politics, and if you get the suffrage or the right to vote, I shall be most pleased to go with you, side by side, and you cast your democratic ticket and me the republican. You shall have that privilege and I shall feel honored if you stay with this, and these are your convictions." But, gentlemen, when the election came around and she, as many others, have seen the trickery that was brought to bear, and that some of our men—some of whom are here to-day, were counted out, she was afraid—yes, far more so than I was, that I was counted out also. [Laughter.] I told her that rather than see those men who were counted out not get a seat in the Convention, I would rather be counted out with them, that was my feelings. I sought no political influence or office, I have no political star in the horizon or in the sky. [Laughter.]

I have never asked for a position from a political point of view. If I ever held an office I am pleased to say, and take honor in saying it, that office has sought me. I came to this Convention upon this ground, I did not seek for that position. I cast my vote for

another gentleman who lived in my own town whom I claim had greater wisdom, greater influence, and greater knowledge; knew more than I did. I cast my vote for him in our caucus, but no, says the people, you are the man we want to go, and, on the second ballot—the first was a tie—and on the second I was in the majority and hence I had to go.

But I did not arise to occupy much time. I am not much of a politician, not much of a political speaker; I was born in the country far away from here, and it puzzles me sometimes to use the proper language and especially to do it grammatically. But I challenge any gentleman who never was outside of America, that if they are willing to discuss with me in the language in which I was born and raised, then I will do it. [Laughter.]

I admire the courage of your friend and I reverence him in his position, because he is eloquent—but I thought to myself the force of his eloquence was lost in the very fact that he went back on his constituents. When we say here, and did say in Provo, "we favor the granting of equal suffrage to women" this was ratified in my county convention at Manti.

Mr. ROBERTS. That is the republican platform.

Mr. LARSEN. Yes, but the democrats claim their's even superior to this and that it goes even further than what this does. [Laughter.] So, I suppose I am justified in going as far as the republican platform goes at least.

Well, I believe that I have said all that I care to say, I will, before I sit down, just read a few lines of a newspaper, it is a democratic one at that, but I think it is to the point:

We have hope and faith that the men of Utah who now have the power to right this wrong will not falter in their work by pleas of expediency or flights of rhetoric, which please the ear but do not convince the mind, and that the pledges given by both parties will be

held sacred notwithstanding the influences to disregard them and betray the trust reposed in the representatives of the people. Give men and women equal political rights and trust to their good sense and honor for the faithful exercise of those inestimable privileges.

I thank you for your kindness.
[Applause.]

Mr. HOWARD. Mr. Chairman, I had not thought to say much upon this subject, but there has been some reference made here in regard to party pledges, etc., and I wish to say a little in support of the position of the majority of this Convention. The delegation from Emery County came here pledged in support of the plank of the Constitution of woman suffrage, and I can say, as did Mr. Squires about Salt Lake, that in the political meetings held in Emery County, and in Carbon County, that question was brought up and talked about and discussed, and I never heard a man or a woman throughout all the meetings that we had there that I visited, have one word to say against the proposition, but it was promised to them, and that promise came upon the ground that it was in the party platform, and the people expected it as such. The ladies want it. They ask for it, and, as has been said here, there has been no opposition to it, there has been no petition sent to this Convention asking that it may not be granted to them. But they ask for it and they want it, and I believe they ought to have it. And I will also add, although some of the delegates here ridicule the idea, that I myself would rather vote against the Constitution with that out of it than to vote for it in any other way. I do not want to see the Constitution formed here with that plank out of it, I want to see it go before the people as both of the political parties in Utah promise that it should go before them—with that in it; and the fear that has been expressed here by some of the speakers, that it would endanger

the Constitution, I believe is ungrounded. Mr. Roberts made a statement the other day in his remarks with reference to the franchise that the women of Utah held here for quite a number of years, it was given to them on account of a challenge that had been given to them, that they dare not give the women the franchise, or right to vote or conditions would be changed if they voted, and it was given to them, not altogether on that ground; perhaps that brought it a little quicker than it would have been otherwise, but it was given to them and it did not result as was expected it would be by those who gave the challenge. It was also said that a gentleman had made the remark, that whenever the women had the franchise, going to the polls was like going to a Relief Society meeting. I, for one, would say that that was one great point in favor of woman suffrage, because if you go to a Relief Society you will find no drunkenness, you will find no rowdyism, you will find no profanity, you may find a great deal of talk. [Laughter.] You will find that at the polls, whether the women vote there or not, and if the women are not there it will be of a degrading character, more so than if they were there. Men, as a rule, will try and behave themselves in the presence of women, and if they go to the polls, while they are men, if they are gentlemen at all, will behave themselves, they will conduct themselves as gentlemen should conduct themselves, and to say that it will degrade them to give them the right to vote, I do not believe it for a moment. I have not got so far along as to think as some of the gentlemen on this floor have intimated, that women are angels, and are up above the men, but I have got far enough to know that we should give them equal rights with men, and at least raise them up to our standard, and if they earn, through their good conduct, which I have no doubt but what they will, the title to be called angels in the

future, then I will willingly give them that title.

But we are to-day human, man and woman is one, and the men who get up here on this floor and talk about women being so much better than the men, and that we should not hold them down to man's level—why, women ask for this. They want to come down, if it be that they are above them. They want to be on an equal footing with the men. They do not want to be placed away up above them where they have no rights; so far ahead that they cannot say anything at all in regard to the government under which they live, but they want to come down and mingle with the men, and have the right to talk in our political affairs.

I could not expect, Mr. Chairman—I never will expect to equal the oratory of some of the gentlemen on this floor, or to go back into history as some of them have; but I will say this, that if we will look at history, if we will examine the history of the people of this earth, go back as far as we will, we will find that where woman has been exalted in the estimation of men, it has been among the most enlightened nations; among the most civilized; among those who have been most Christianized and who believe in a Supreme Being, that has power to reward men for the good that they do. And, on the other hand, where you find woman degraded, you will find it among the savage nations, and the more savage they are the more degraded their women are.

I am prepared, Mr. Chairman, to vote and sustain the plank that has been offered here by the committee and against the proposition or the substitute offered by the minority.

I will call your attention to section 6 of the article presented here by the committee on election and suffrage, which I believe will be adopted. Now, if we refuse the women the right to vote, if we refuse to give them the franchise, we will then place them on the same foot-

ing with the persons described in that section.

(Reads section 6.)

That is the footing and that is the place we are placing women when we refuse them the right of franchise, and I do not think we ought to do it. I think we ought to give them what they ask for. I will do that. I have been upbraided sometimes for not getting my wife things she did not ask for. She did not ask for this, and I calculate to surprise her, and will if my vote will get it for her and give her the franchise.

Mr. CREER. I have an illustration to make on the point the last gentleman has spoken on, and that is this. We are confronted this afternoon with a very strange picture contrasted with what I am about to relate. Of course, it has been demonstrated by argument upon this floor, that if we deny woman the right of the franchise, we are denying them the right that the Indian, the criminal or the lunatic may have, because the Indian may sever his tribal relations, and the criminal may have his disabilities removed, and the lunatic may return to his reason. I say this in deference to the gentleman whose eloquence has been so clearly portrayed upon this floor, that we stand here a parallel—perhaps no better parallel can be found in the Territory. He was born within a few miles of where I was born. We came here to this land to seek our liberties; he has had to pass through tutelage, and so have I, in order to obtain the high privileges that we have to-day. Further, it seems to me very remarkable, every one of those who have signed this minority report are men who have had to pass through tutelage to obtain the franchise, but the only difference is this, that the gentleman is unwilling to accord that to the females, but I am. I was about to say, that twice in my life-time I have had to pick up men who have been mutilated by the scalping knife of the Indian in this Territory. And it is

within a possibility that these men, under the provisions of this substitute, would have the right to cast their vote and yet they deny this to the ladies here who are before you ladies who have been educated and ladies that have helped to bear the heat and burden of the day in the experience of our commonwealth. I say that this is certainly wrong. It is not in keeping with the times, and I say this further, that the gentlemen who are in favor of voting for the affirmative of this, are in accord with the progression of the age. There is no need debating the fact that the question of female suffrage is progressing, it is not retrogressing. Over one hundred states and provinces have already granted it to some degree, and even the birthplace of my friend, and all of those who have signed the minority report, grant it to the ladies in some degree—the gentleman who says of course unmarried women and widows can vote, but he is unwilling even to grant that much to the ladies. It is an absolute refusal to grant them the privileges that the ladies received in the land of their birth; greater privileges of course, are accorded them in many other states and some other provinces.

I say this is not democratic, but I had rather follow the judgment of the gentlemen, who, in territorial convention, as well as county convention, laid the platform broad and strong that we were willing to stand by the ladies and grant them this privilege. I say it is a shame then that we should deny the privileges that this class of people whom I have referred to would enjoy. Talking about the placid waters of the sea; I remember, nearly half a century ago, we were coming along there in the Gulf of Mexico, those muddy waters that he spoke of were blended with the beautiful water of the Gulf of Mexico. And why then can we not afford to repose upon their bosom and grant to

all classes the rights we enjoy as American citizens?

Mr. JAMES. For my benefit, and others in this Convention, I ask for the reading of the substitute; it has been a long time since it was read to this committee, so long since it was read that I almost forget what it contains.

The substitute was read by the secretary?

Mr. JAMES. As the substitute is read I had not understood from the time this debate began up to the present time. My impression was that this provided for submitting the question of woman suffrage to the people in a separate article. I was not present at the time it was offered, and I only knew of, or judged what it contained from the remarks that were made upon it. That being so, it stops my discussion that I have arisen here to offer to this committee, and I will only make a few remarks, explanatory to the form and course that the debate on this floor has taken.

There has been a position taken that if a member of this Convention should vote for to submit this to the people in a separate article, they were anti-woman suffragists, which I wanted to arise and disclaim. I maintain and I supposed that I knew something about the position in Salt Lake County in the republican party upon this question, and this issue during the past campaign. I supposed I knew something about it, although I have come to a conclusion to some extent since I have met my friends and co-workers, that I must have been dreaming or asleep. My understanding was—of course I knew that that provision was in the territorial platform, but I never met anyone—a single person during that campaign that belonged to my party, that maintained that that meant that there must be a plank put in our platform granting suffrage to the women of Utah Territory. But, on the other hand, it was conceded that it meant that suffrage should be granted

to the women of Utah, and the republican party in favor of it, but it should go to the people in a way so that they could say whether they wanted it or whether they did not want it. It never was understood by me or any of the numerous other speakers we sent out throughout this county that they should take any such stand as that. In cases where any remark was made or explanation made by me, as chairman of your county committee, was that that meant the submitting of that question and the ratification of woman suffrage by the people when it went before them and was discussed upon its merits.

Now, I did not attend a single republican meeting during the campaign (and I attended a good many) that the question was ever in my presence mentioned—not one from the start. I say, gentlemen, it is my opinion that in Salt Lake County to-day, unless it may be some isolated outside precinct that I am not much acquainted in, this question is unsettled so far as its having been placed before the people and debated and understood. Now, for that reason I do not want any gentleman to be placed in the position that they are opposed to woman suffrage simply because they are opposed to the plank going into our Constitution that we are framing for our new State. I am opposed to that position and that style of argument, and I am rather in favor of our friend's from Summit County position this morning on this floor, that the unfairness of the position comes from the gentlemen that insist that it must go there. Now, why? There are honest people all over this great United States, and, for that matter they are around this great globe, that do not believe in woman suffrage. There is a great mass of them that do not believe in it. Now, it is to be supposed that there are some in Utah Territory that do not believe in it, but the mass of the people of Utah Territory want statehood, they want it to a man, they want it to a woman,

and their children want it. Now, you gentlemen, turn around and say to those people who may be honestly convinced that woman suffrage is not the proper thing; you say to them, "you take that or you take no statehood." Now, is that a better way to do this business, Mr. Chairman? Is it not a better proposition to submit this matter to the people of this Territory in a separate article and permit them to say whether they want woman suffrage or whether they do not want it. Can any man say, because I raise my voice in favor of submitting it to the people and having it discussed from the points of merit when I claim that it has not been in this Territory, it may have been in some places but they are where I am not acquainted with—is it unfair that it should go to them, and is it fair that you should say that I am an anti-suffragist? No, I say, gentlemen, it is not.

Now, I do not blame any man for coming here and voting his honest convictions; I am not upholding any feelings against any gentleman for that reason, and I do not blame a man if he comes from a district where his people understood that he was pledged to woman suffrage before he came here, where it was discussed and debated, and he came upon that issue, for coming here and defending that principle. But, when men come here as I came, it is a different proposition. I say that in my district where I was nominated, in the convention which gave me the nomination, not one single word was uttered upon this question, not one word, and the fact of the matter was this: The understanding was, as our friend Mr. Thurman from Utah has stated to you, there should not come into this Convention anything of a political nature; and secondly, our nominations were given to us as the choice of our party. We're not committed beyond anything but what was supposed we would do, and that being our strict,

honest, sworn duty to this Convention. Now, the resolution as it has been read here, and, as I understand it now, I shall vote against it, but if I have an opportunity in this Convention to vote for a proposition that proposes to submit to the people of this Territory, and not force it into our Constitution, I shall support it, for I believe that that is the proper way to do it. I believe that the wishes of the people should be granted, but I believe still, that their wishes should be ascertained in a way so that it may be properly understood.

Mr. MACKINTOSH. As one of the minority committee I wish to say a very few words in support of that motion. I would say a little more, but I think the gentleman, Mr. Whitney, from Salt Lake, has made one of the most unanswerable arguments that was ever made; but that should not get into this Constitution, and I will refer to that portion of his argument where he departed from the merit of the question and cited the gentleman from Davis County, Mr. Roberts, and told of an instance where in the church nearly two thousand women held up their hands to vote for him for a high ecclesiastical office. He pulled on the floor of this Convention matters which I supposed were entirely out, but matters, sir, of which I have a grave and serious doubt. I hope I am mistaken, but that part of his argument convinced me that the report of the minority was correct, and I think I am correct. I have never yet in any way bound myself to a pledge that is put in that republican plank. The first I heard of it I denied it. When I heard it from the constituency in the second precinct, I told Mr. Walker and others that I did not endorse that portion of the platform. To-day I was not going to say a single word, but when I heard the gentleman, Mr. Whitney, from Salt Lake, arraign the gentleman from Davis County, and tell him the things

ecclesiastical that he had done, and that two thousand women held up their hands, I am afraid that forty thousand women will go and raise up their hands to elect some one to a high political and temporal office. I thank you.

Mr. HEYBOURNE. I did not, Mr. Chairman and gentlemen of this committee, intend to take up any time in talking upon this important matter that has now been brought to our attention. But I am of the opinion, sir, that I would be somewhat derelict in my duty, were I not to stand up and express my views and sentiments, at least a few of them, in regard to this matter, thereby representing the people whom I have the honor to represent upon the floor of this Convention.

I, sir, listened with a great deal of interest, and I might say pleasure, to the able remarks that have been made during the pending of this important question, and in listening to them, sir, I have taken into consideration the circumstances that have transpired in this Territory since the memorable June when the territorial convention convened in the city of Provo, and among other things presented before the people of this Territory was their banner, upon which is written in unmistakable terms this fact, that the party was in favor of woman suffrage. I am really surprised, sir, at the statements that have been made by the honorable gentleman who, I understand, to-day holds the exalted position of chairman of the county republican committee of this county, and I should infer, sir, from the remarks that he has made, in connection with other gentlemen, that we are trying to carry water on both shoulders; that there is a disposition on the part of some to avoid the responsibility that now attaches to this important matter that has received, and is now receiving, our attention, and we are seeking now to shift it back and say to the people of this Territory and the

ladies, "You pass upon this question. You consider this question, and if you are favorably disposed, why, petition the Legislature that shall convene, and doubtless you will get the privilege granted you." Now, Mr. Chairman and gentlemen of the committee, I do not propose to cast my vote or use the little influence that I command, in the agitation of any such proposition. I do not so understand it. I wish to state, sir, that when this matter was presented to the people, so far as the southern part of the Territory was concerned at least, they looked upon it with favor, and they looked forward to the time, particularly the ladies, when they might enjoy the rights and privileges that of right belonged to them. They looked forward to the happy time that was alluded to by my friend from Sanpete County when they might go hand in hand with their husbands, fathers and brothers and cast their ballot. That is what they looked forward to, and it was in anticipation of this great and glorious privilege our county conventions were convened. And what was the result? I do not call to mind, sir, at this time, one of those conventions that I read or heard about, but what endorsed the sentiment of the Provo platform and were willing to pledge their support not only upon the silver question, but particularly upon the woman suffrage question. And with that understanding we went before the country, we went before the people of this Territory, and we were proud to state that that spirit of liberality had aroused in the hearts and breasts of the republican party of this Territory that they would grant unto the women this inestimable privilege and prize. Now, some of the gentlemen upon the floor of this house say that they did not understand it in that light; that they did not understand that this should be placed in the Constitution of the coming State of Utah, and that it should be a mat-

ter that should be left entirely to the people. I have to differ with those gentlemen. I assumed this responsibility of coming here and throw in my humble efforts in connection with gentlemen, in the drafting of this fundamental law of the country, to accord this right and privilege to the ladies of Utah Territory. I have not yet, and am happy to say, been changed in that feeling and sentiment.

As was remarked by the honorable gentleman from Salt Lake, this morning, we are starting out on a new era. It is a time of progression. Now, gentlemen, when this opportunity is presented to us, shall we pass it by, shall we ignore it, shall we manifest to the people of this Territory that have imposed confidence in us, that we are too weak, that we are a party of broken pledges and promises? I have more confidence in those who compose this Convention than to even think of such an idea as that. Let us start the ship of state in progress. Do not let us throw an anchor around her that will hinder this progression that we look forward to in the future. Gentlemen upon the floor of this house have stated that they are looking forward to that with regard to the citizens of this coming State. They have referred to the institutions of learning as the foundation in which men and women could be reared in those principles, and that would make of them great men and great women, that would enable them to carry on the responsibilities that will devolve upon us when these changed conditions are brought about. Do you forget, gentlemen of the committee, that the very foundation stone lays with the women of this Territory. We can entrust them, gentlemen, with the molding and fashioning of the minds of our sons and our daughters, but we hesitate when an opportunity is presented to place them side by side with us lords of creation. I shall oppose the motion

that is now pending for the substitute, and I trust that I shall vote in favor of woman suffrage.

Mr. KIESEL. As one who signed the minority report, I feel it incumbent upon me to say a word or two. I have heard many eloquent orations here on the right of suffrage to be accorded to women, and, as a result of the various fine efforts, I will admit I am converted.

Mr. HAMMOND. To what?

Mr. KIESEL. Theoretically. In principle, and for this Territory, this is not applicable at all. It puts too much power in the hands of the clergy. We have just begun to assimilate and are trying to adjust the old people's party and the liberal party, and now you are about, through the aid of woman suffrage, to increase the vote which we are trying to assimilate, by about thirty thousand or more. I fear that this is the result more of the wishes of the men and not of the women. In my section, where I come from, I have not yet been appealed to by a single woman. On the contrary, (I go home once in a while) I have the approval of my course—the course that I have pursued this far. They have not tried to hang me in effigy or anything of that kind. On the contrary, I have held their approval.

Mr. DRIVER. May I ask a question?

Mr. KIESEL. I will answer your question when I get through; just put it on a slip of paper and by and by I will answer it. [Laughter.] Now, then, the people in Utah consist of at least four-fifths of the Mormon Church. If there were more churches, if this thing was a little better divided, I would not object so much, because I think in the discord of the churches lies the safety of the state. That is the way I look at it. Now, the Mormon people are good people; I have lived among them some thirty-two years or more. I know just as much about them as anybody. They are neither better nor worse than we are. The lust of power is inherent in the human breast, and they will use

that power, unless I am very much mistaken, when opportunity arrives. I know we have the promise of gentlemen who are very sincere, I have no doubt, that this power shall never be used, but, gentlemen, in all these things we must be guided by history. And where has it been that when men have the power, that they would not use it? I know we Gentiles would use it. For this reason I say that the more you diffuse churches that much more will take away the power to do evil, politically. It has been said, and justly, that woman by reason of her sympathetic nature and religious impulses, will more readily yield to the submission of the clergy; it will take her some years to get over what she has been taught for so many years. I have the highest respect for woman; I yield to no one in that respect. I have worked for thirty years for her emancipation and for her enfranchisement here in Utah, and when that request for her enfranchisement came from the other side, and knowing how it had been used in times past, then, naturally my suspicions were aroused. Now, then, lead me not into temptation. The temptation is that this power will be used if it is given to them. For this reason, I am just at present opposed to conferring the electoral franchise on women in Utah. Otherwise, I might concede it. In Utah I consider it out of place and unsafe.

Mr. MILLER. Mr. Chairman, as this meeting has taken on the character of a love feast, I want to hand in my testimony. I took an active part in the campaign last fall from the beginning; was elected as a delegate to the territorial convention, which met at Provo, for the purpose of nominating a delegate to Congress, but through circumstances over which I had no control I was not permitted to meet with that body. One week after the convention met, the county of Sevier ratified the platform adopted by that convention. I was invited to participate, and the

only plank that attracted the attention of the women of Utah in the county convention—that plank was again adopted; ladies were present, both from the republican and democratic party, or ladies who were in sympathy with both parties. We extended them the courtesy of the floor; they talked or spoke to us in behalf of the measure. Right then and there that county convention that nominated three delegates from Sevier pledged themselves to that measure, and I could not consistently do otherwise than vote for the proposition submitted to us by the committee on elections and suffrage.

As for the proposed motion of submitting it to a separate vote of the people, I could not consent. If my wife was ever granted the right of franchise I want her to come in the same as myself and not be hung on the tail. And I believe, Mr. Chairman and gentlemen of this Convention, that if we shall vote down this measure, if we shall prove false to the trust that the people have imposed upon us, if we shall break our pledge and kill this measure, it will be the liveliest corpse that ever Utah had on her hands. It is a progressive measure, and I think we will take a forward stand in the forward rank among the states of this Union if this Convention shall adopt and place in the Constitution for the proposed State of Utah the proposition giving women the right of suffrage.

Mr. DRIVER. Mr. Chairman, I arose here a short time ago to ask my honorable colleague, Mr. Kiesel from Weber County, a gentleman capable of signing the minority report on this important question—to ask him a single question. He did not deign to answer me. I believe that is the first instance of the kind that has ever occurred on this floor. So far as I have noticed, when one gentleman has arisen to ask another a question, that gentleman who has been addressed has been polite enough to accord to that gentleman the privilege to ask

the question, and if he could, to answer it. But, in my friend's case it has not been so. He said the ladies of Weber County did not approach him on this subject of woman suffrage, and ask him to support it. I do not believe they did. I believe he has spoken the truth on that matter, but I do not believe there is a lady to-day in Weber County that does not know, if she is over 20 years, or rising to that age, that Mr. Kiesel is diametrically opposed to woman suffrage, and would not allow it to exist if it was possible for him to prevent it. He is not in favor of woman suffrage, he is in favor of the principle enunciated in the minority report.

Mr. KEISEL. I told you I had been converted.

Mr. DRIVER. You never can be converted. [Laughter.] There are some things that may happen, there are some things that can never happen, and I believe honestly from my soul this is one of them. I have known Mr. Kiesel 25 or 30 years, and he has been traveling in the direction of suffrage all that time, yet, at the same time professing to be in favor of enfranchising the women of Utah. Now, if it takes a man 25 or 26 years traveling in one direction at a quick pace, how long will it take him with the obstacles that he would encounter on his return, to arrive at the position that the majority of this Convention is to-day? He never can get there in his lifetime, and when he does come, it will be from the grave in spirit to see the progress this movement has made during his absence. I say as a republican I was pledged to this step, to vote for the right of women to cast their ballots as well as men. And while I am not an old republican, I want to tell these gentlemen here that I was born into this party less than a year ago; I believe that the republicans were men of their words, that the republican principles were the correct principles for me to follow, and I understand that party plat-

forms were the same as articles of faith in matters of religion; they were to be honored and respected, and if possible, lived up to.

I was at Provo. I voted upon the article that gave the right to women to vote—the right of suffrage, and I have felt all the time that I was bound by that platform. Some people say that I voted for it because my wife was a leading suffragist. Not at all. I believe, like some other gentlemen here, that if my wife wanted to vote her way, why she should do it, and it would not interfere with the way I voted, but thank God we are both republicans on that point at least, and I think she is right. And I want to tell Mr. Kiesel and every other man who thinks as he does, that there has never been a time since the first pioneers entered this valley, since the first three ladies came through Emigration canyon, that they ever needed enfranchisement from the sources that he has suggested. Never. The ladies of the country never have been slaves; they are women who have been the pioneers of this country with their husbands and their brothers, and if there is anything around us to-day that we see to admire, the ladies of this country have helped to make it. Some say that they should be able to shoot the bullet and carry the bayonet and go to war. I believe lots of these ladies have done worse than that; they have worked all day long and killed the crickets to save their husbands' crops, and they have worked side by side with them to save their families from starvation, and I believe that if the time should ever come that they would have to carry the rifle, they are perfectly competent and able to do it. But is it necessary in order to give these ladies the right to vote, that we should have it demonstrated to us that they are Amazons—that they will go to the front and fight? No, sir; let the regular army go first, let the militia follow, then come on with your volunteers,

and when they are all swept out, I guarantee you will find a fighting force in this country such as the world has never seen before. The women will fight for their liberties and for the liberties of their husbands and their sons. And I say, gentlemen, that the ladies of Weber County want the franchise, they want to vote, and they are going to have it. I did not think that it was necessary for anyone from Weber County outside of Mr. Evans to introduce this matter or to speak upon it upon this floor, and I would not have said one word, but here we are, eleven from that county; one has spoken in its favor, and one gentleman says that not a lady in all Weber County wants the right of suffrage; they came down here in advance of all others, from any section of this country; they held their convention in Ogden City and sent their delegates down here, and I believe those delegates from Ogden City are treated with respect and consideration by the committee before whom they appeared, as I know they would be.

Now, gentlemen of the Convention, this is all I need say upon this matter, but I want to say that I am for woman suffrage, first, last, and all the time, and I believe in giving the women the ballot that they may know how to use it, and that we will not regret it; and I hope to see the day when my friend, brother Kiesel, from Weber, and all that appertain unto him, will see the matter in the same light as the majority of this Convention see it to-day.

Mr. MORRIS. Mr. Chairman, I have been astounded in listening to the remarks of the chairman of the republican county committee. In his statement he stated that he never knew that the woman suffrage was to be placed as a plank in this Constitution, but that it was to be presented to the people as a side issue at the election. I have never heard such a thing mooted before in all the meetings that I have attended of the republican party. It is true that

prohibition has been mentioned as a side issue to be placed before the people to choose or to reject; and with all due respect to the member from Salt Lake, it looks to me as something in the shape of crawling back, because he knows well the sentiments of the republican party in regard to the woman suffrage. And I will say in regard to woman suffrage, it looks to me as a relic of a barbaric age; of the dark ages that have past. And I wish to say in regard to some point that was made by my friend from Davis County in his eloquent and masterly speech, which he made, when he made mention of the ladies and the conduct of the ladies which disqualified them as being worthy of the franchise. He read a newspaper here referring to the ladies of the World's Fair commission. I had to blush for him for bringing that up as a reason against woman suffrage, because whether it is true or not is more than he can say. For we all know that all that is printed in newspapers is not always true. But because of a little quarrel, a dispute between the ladies in the World's Fair commission meeting, that that should be sufficient to bring before this committee as a disqualification for ladies to receive the franchise. Because she uses the only weapon that she has in self-defense, that is the tongue. It is an old saying that that is the best and only weapon that ladies have in self-protection. But my friend from Davis County dare not mention about Breckenridge with a black eye and a bloody nose in the halls of Congress. That should disqualify him. Men are excused and honored while women are despised and set aside. On another point I want to differ from my friend from Davis, in regard to his remark about the tragedy and disgraceful conduct and action in Wyoming. He brought that up as a reason that they were not worthy as yet for the franchise. Why, who did it? Was it the women? Excuse me, no, it was the man that had the

franchise—it was the man, not the women, and I cannot see where the points come unless it is to stigmatize the characters of our good ladies in this regard. Another statement was made in regard to going to the polls to cast their ballots. Is that a place fit for ladies to go? Why? Drunkenness, carousing, cursing, swearing, and not a fit place for a lady to go to cast her vote. Who makes it so—is it the women? Is it the women that make it so distasteful for men to go to cast their ballots? I say no, it is the men, and if I had my will, I would disfranchise all who cannot appreciate their high privileges and act as men, and give it to the women.

There was another remark made in regard to the first commandment that a woman was to look to her husband as her head. I would like to know if that would disqualify a woman for receiving the franchise. Have we not heads in our government? Have we not a President that rules supreme over this great and mighty nation? Yet does that deprive us of a right equal with him in casting our votes at the polls? I say no. Hence, I am free to acknowledge that I have not heard a good sound reason, logically, to disfranchise or to prevent the ladies from receiving the franchise—not one. They are entitled to it, and I for one feel that I can afford to stay out with them until they get it honorably in this nation. I can stay out with them, and I pity the kind of a nation or a kingdom without women. I would not want to have such a kingdom as that, unless there was a woman there. Hence, I am ready to give the franchise to the ladies, not half way but give it in full, equal with ourselves. Let us be men, and let us keep our word; I think they will add to our honor and to our glory if we take them side by side with us, and take them to the polls, and I think they will accomplish much in reforming those who already have the ballot or the suf-

frage. It is a shame when we look on our election day to find a miserable drunkard that will sell his franchise for a pot of beer, or sell it for a dollar, and refuse the good ladies of intelligence and owners of property a right to cast their votes. It is wrong and it is time that the change should come, and we will never see such a golden opportunity as to-day, in preparing ourselves to become a State. Now is our time. Leave it to the Legislature, leave it to the voters, and it will not be done. We have learned a lesson in regard to this. We have a power to-day to place it there, and no man living can prevent it. Hence, let them have it.

Mr. JAMES. Can I ask the gentleman a question? You can say that if it was left to the people and to the Legislature the women will never get it. Then isn't it because the people do not want it? If the people will not give it if we leave it to the people, I ask you do they want it?

Mr. MORRIS. I say they want it; and I also say that when this business is left outside of the Constitution there is such corruption in the midst of men to-day, and wire-pulling, and money spending, that they can obstruct anything that is right, in nine cases out of ten.

Mr. BOWDLE. I move you the committee now arise and report progress.

Seconded.

The motion was agreed to and the committee arose and reported as follows:

The committee of the whole which has had under consideration the proposed article on elections and right of suffrage, now report progress.

Mr. SQUIRES. I move the Convention now adjourn.

The Convention then, at 4:50 o'clock p. m., adjourned.

TWENTY-NINTH DAY.

MONDAY, April 1, 1895.

Convention called to order at 10 o'clock a. m.

President Smith in the chair.

Roll call showed a quorum present.

Prayer offered by Rev. Francis Herman, of the Scandinavian M. E. Church.

Journal of the twenty-seventh day's proceedings read by the secretary and approved.

Petitions and memorials.

A supplement to file No. 166, asking for prohibition, was received and referred to committee on schedule, future amendments and miscellaneous.

The committee on revenue, taxation and public debt reported, and the report was ordered printed and placed on the calendar of the committee of the whole.

The privilege of the floor was granted to Messrs. Sudberry and Judd.

The Convention then resolved itself into committee of the whole to consider the article on elections and right of suffrage, with Mr. Goodwin in the chair.

COMMITTEE OF THE WHOLE.

Mr. EICHNOR. Mr. Chairman, I ask for information; how many amendments are before the house?

The CHAIRMAN. One, I believe—one substitute.

Mr. EICHNOR. Mr. Chairman, I submit the following amendment, and move that everything be struck out and this be inserted in lieu thereof:

The following article shall be submitted as a separate article to the qualified electors for adoption or rejection at the election for the adoption of the Constitution:

Section 1. The rights of citizens of the State of Utah to vote and hold office shall not be denied or abridged on account of sex. Both male and female citizens of this State shall equally enjoy

all civil, political, and religious rights and privileges.

Mr. CREER. Mr. Chairman, it is exactly word for word the section as reported by the committee.

Mr. EICHNOR. I will state that the section is the same, but, of course, it is qualified by what precedes it, and I desire to state at this moment, as I have given my time away and cannot speak until I get more time—I introduce this in the interest of peace and harmony, for the good of the people of the Territory.

Mr. THURMAN. Mr. Chairman, I wish to make a point of order on the substitute, that it is not in order; it is not germane to the question before this committee to propose something to be submitted to the people hereafter as an amendment to a paragraph proposed to be placed in the Constitution; it is an independent question entirely. It has little or no relevancy. It may be all right for the gentleman to offer that as something he proposes to offer in case the proposed amendment is voted down, and in case the paragraph proposed by the committee is rejected. But to propose it now is a matter of argument; I do not think it ought to be considered; I do not think it is germane.

Mr. EICHNOR. Mr. Chairman, it is in the form of an amendment; I hold that it is strictly proper. It removes the whole subject and inserts something in lieu thereof. The move may be a little different by which it is reached, but certainly it bears on the subject.

The CHAIRMAN. The amendment has a direct bearing on this subject. It simply proposes to change the manner of reaching it. I think it is in order. The question will be on the amendment of Mr. Eichnor.

Mr. JOLLEY. Mr. Chairman, the condition we are in this morning reminds me of a couple of travelers who were traveling from one town to another in our county, and there came up a snow storm and they missed their

way and were lost for a while. Finally the storm cleared away, they saw they were verging into a town, and meeting a boy on the street, one said to him, "Young man, where are we?" And I would like to ask the question this morning, where are we? If I understand it properly, all the gentlemen that are here upon this floor upon both sides, have come fully to an understanding, that they will vote for suffrage providing that would be true to the wishes of their constituents. It is true one or two have taken an opposite view and have spoken very fluently in their way of vindicating their side, and it is also true that we have some petitions, that have been recently, and quite recently too, hastily gotten up to sideswitch the suffrage question, and let the people vote on it. But in no instance that I am aware of up unto the present time, have we had a petition anywhere in Utah to lay the suffrage question aside entirely—that they were opposed to it. I did not expect to speak upon this question in the beginning of our Convention labors. There were a few that seemed to be desirous of occupying the floor, and I was willing to let them do so; but it appears to me that this question has been the chief topic that we are to take in hand. From the county where I have come, I take it that women want what we care to give them. Had they not wished it, they would have handed in a petition or said something to me or my co-laborers before we came here. It is true that the young man who has been referred to from our county (Mr. Lund) that said the women from Sanpete County did not want suffrage, has gleaned his information from some source that I am unacquainted with, and I think it is an assumption on his part to make such an assertion. And I imagine, he being a single man, that he would have been associated with the younger class, that possibly they whispered in his ear, and told him they would trust their suffrage in this

life to him, but as for the married ladies, as for the mothers, I think if they did not want suffrage they would have said something about it, and gave us a different position to stand upon than we are in at the present time. It has been said here by some of the former speakers that they are better than men. Yes, we will concede that, but I have never known many men that will go into the washtub. Their wives will go there. They are not too good to go there, or at least, Mr. Chairman, the ladies of our county are not too good to go into the washtub. They are not too good to stay in the kitchen all day, and my position that I occupy here to-day, is not exactly one of my own choice, for the simple reason that I have been elected upon the platform that grants or promises to grant equal suffrage to women with men. I can see no harm in them having that right. We have by those who have opposed the principle, the language that woman was made to be by the side of man, not following after him, not to be his lead. I will agree with that speaker. I do not expect that any of the ladies would want to be elected as justice of the peace. I trust they would not, for I believe it would go against the wishes of any American citizen for his wife to say, "take this husband of mine off to the lock-up." I would not like for my wife to say that to me. But the granting of this boon that we have promised them is one question, and going back on our word is another, and that is a serious one.

I am very much surprised at some of the leading men in Salt Lake County. I have wondered in my mind if some of us were not acting more like school boys than the intelligent men that have been selected to represent the Territory all over, to come here to make laws. I cannot see how it is that the chairman of the republican party of Salt Lake City can construe the meaning of that plank which is inserted in the republi-

can platform as he does. I was out of the Territory at the time that the parties divided on party lines; when I came back, in the place of finding my family as I had left them, quiet and not thinking of politics, I found my wife and daughter aroused to politics, their thoughts were upon politics, not only that, but not knowing anything about my views, for I had never expressed them before I left them, had taken up party issues. They had declared themselves in the family circle to be republicans. On going to the first political meeting I did not behold simply the faces of men, but as I see here before me this morning, a mixed congregation. They were gentlemen, they were ladies, and it appeared to me from all I could see that one sex enjoyed what was said as much as the other, and took as great an interest in it. Mr. Chairman, suppose that we succeed in getting a State government, and send our senators east to represent fair Utah, we send them on the basis of silver sixteen to one, they go down there, they meet with men that are able to speak eloquently, as brilliant minds as there is in the great nation whom we represent a part of, and they would say to our senators from Utah, "Well, how do you stand out in the west on the silver question?" "Oh, we are solid, we have come down here to represent our people, and they want the double standard, sixteen to one." "Ah, that will hardly do, you must not be so selfish as that to represent your little district of the country, but when you come here, you come here to legislate for the whole nation. Why we people down here in New York, if we go to the bank and they go to shifting us out the silver we tell them we don't want to be loaded with the bullion. We want the gold."

Mr. RICKS. Mr. Chairman, I arise to a point of order. My point is this. Rule 20 says that no member shall speak more than twice on the same subject,

nor more than five minutes at any one time. I have allowed the gentleman to speak ten minutes, for fear that the rule may not be applicable to that idea, but I believe, sir, that the rule strictly forbids any member speaking longer than five minutes at one time, but allows them to speak twice occupying five minutes each. I would like to have a ruling of the chair on that subject.

The CHAIRMAN. Your point of order is well taken, but the rule has been ignored until now.

Mr. THURMAN. Mr. Chairman, I insist that there is a classified presumption in this Convention, that the gentleman has got a long list of names in his pocket that he can produce, but he ought not to be required to produce them.

The CHAIRMAN. I do not think any gentleman ought to be compelled to show what he has in his pocket. [Laughter.]

Mr. JOLLEY. Mr. Chairman, I seconded the motion on Saturday. Mr. Roberts had all the time that he wished in the closing of this debate. This is my first speech, gentlemen, upon this floor since the Convention met. I ask your indulgence a few moments. I will be brief.

The CHAIRMAN. Go on.

Mr. JOLLEY. Those senators in the east would say to ours, "You do not view those things right, be a little patient, agree with us for the single standard, and in a short time we will have shipped loads of gold from old Europe and it will be sent west and you people down there will not have your pockets full of bullion, but it will be full of twenty dollar gold pieces." Our senators would look at each other and say: "Well, things have changed materially since we left our homes." As was stated upon this floor in relation to suffrage, since last November—"Things have changed and if it is really so that our people by being a little patient can carry twenty dollar gold pieces in their pockets, in the place of silver at sixty-

two and a half cents on the dollar, I think we had better change our issue, and when we go back and tell them what ground we had to change it, it will be all right, if not, they will have the privilege of voting upon it next time." I appeal, gentlemen, to you, the republican delegates of this Convention, I appeal to your honor, I appeal to your position, I appeal to your future desires, and the ambitions you should have as men and not as boys—not exactly as the Dutch justice was, when the lawyer in pleading his case got through, the judge says, "To be sure you have got and won the case," and the other one on the side of the defense, rose and made such an eloquent plea, as only some of our delegates here are able to do, and the judge says, "Sure he has won the case." So it left the judge to pay the debt and the costs. And I want to tell you republicans, being the majority in this Convention, that if you allow this issue to pass, if you do not stand upon the foundation of men of judgment, carrying out the wishes of your constituents who sent you here, and not allow your own feelings to come in and change the matter, you or the republican party will have to pay the costs in the future, for it will be laid to you, you being able to carry this measure through, or able to defeat it, or to switch it, and make it a rider—you are more responsible than our democratic friends because they realize that they are in the minority. From what I can see here (and I am sorry to say it), it appears to me that if the democratic side had been in the majority where the republicans are to-day they would have had this thing put through [applause], and it would have been settled. But I can see weakening knees in the republican ranks in this house that I am ashamed of, gentlemen. Those are my feelings in the matter. I am no boy, I came here as a man to represent men. I came here not to place my own feelings upon the standard, and vote as Mr.

Jolley would have a desire, but I came here to vote, to advocate and to fill the obligations that I have made with my constituents, and when I return I will look them in the face, and I can tell them, although I have not had a monopoly of this Convention, as some of my most intelligent friends have, that seem to be quite silent at the present time, and have not had a great deal to say—but I can look my people in the face, and say that I have done my duty. I want to tell you here, gentlemen, that Sanpete County wants suffrage for women, and I believe every other county wants it, and if Salt Lake County does not want it, why in the name of goodness have not they sent in a petition here telling us they do not want suffrage, that you make a mistake when you put it in the platform? I think that you men that are beginning to switch about here, had better consider where you are, who sent you here, and what you were sent here for.

Mr. ROBERTS. Mr. Chairman, I wish merely to say that before the house shall come to a vote upon this substitute, as I neither favor submitting a proposition to be voted upon by the people separately nor in inserting it in the Constitution itself—I wish it distinctly understood, that I reserve my opportunity to reply to this discussion before that matter shall come to a vote lest it should displace the substitute that has been under discussion for the last few days.

Mr. IVINS. Mr. Chairman, the very wide scope which this discussion has taken, and the introduction this morning of the amendment offered by my friend Mr. Eichnor of Salt Lake City, have prompted me to do that which I had not intended to do, for it was my intention to have let this matter go to a final vote without having taken part in this discussion. When I moved, Mr. Chairman, last Thursday morning, that this question be passed to its third reading without further debate, it was with

the very best feeling on my part, and not by any means with an intention of preventing a full discussion of it, because the very nature of the motion indicates that when it should come up for its final reading it would still be open to amendment and discussion. That question has already been discussed during one whole day very ably and I thought profitably, but I fancy, Mr. Chairman, that I saw in that discussion, that which would lead up if it were continued, to criminations and recriminations, to heart burnings, to the introduction of matters upon the floor of this house, the revival of old issues and questions, which would be discussed here not only without profit but to the absolute disadvantage of the members of this Convention. Mr. Chairman, I did not understand when I came here that I came as a Mormon or anti-Mormon, as a Catholic or a Protestant, as a Christian or an infidel—no, not even as a republican or a democrat. Because on the very day that the majority of the votes in the county, which my colleague and I represent, indicated that we were to be their representatives I regarded it as my duty just as much to represent my republican constituents as I do feel that these questions which have been drawn into this debate were unnecessary, that they have been unprofitable.

So far as my personal convictions upon this matter are concerned, (and I must express them while I am on the floor,) I wish simply to say that at the convention where we were nominated, that ourselves being present and accepting that nomination, a resolution was introduced instructing us directly to use our best efforts to the end that a clause should be incorporated in this Constitution, which we are about to frame, granting equal suffrage. Under these conditions we came here pledged. We could not, if we desired, in honor to ourselves, swerve from that duty which was there placed upon us. Other-

wise than this, my own convictions are very strong upon this question. I do not wish to enter into an argument because it would only be a reiteration of that which has already been said. But the question of woman suffrage is not a new one in Utah. It has been discussed long and earnestly. Long ago I procured every book that I could find in a book store in this city that treated in any manner upon the rights of woman, and the position she should occupy in the professional, business and political world. I studied them carefully, and I read the debates. I read the arguments pro and con upon this question, and I must admit that in all the time we have devoted here to debate, there has not been a single new idea advanced. The very same arguments in opposition to woman suffrage that have been advanced here were advanced in Wyoming, they were advanced in Kansas, they were advanced in Colorado, and the same arguments in reply were made there. Why, the question, Mr. Chairman, has been discussed as though it was one that was peculiar to the people of this Territory, as being a special hobby of theirs. This is not the case. Woman suffrage is being discussed in every state in this Union, and the fact that a bill introduced granting equal suffrage has just been defeated in the legislature of Arizona by a majority of only two or three votes; the fact that the same result comes from California, the same result comes from New York, is an indication to us that this question is being favorably considered in other states of the Union, just as it is being considered in Utah.

Gentlemen say, "Why, for thousands of years, women have been asking for equal political rights with men, and if they are entitled to it, why have not they got it?" This may be true and that discussion will go on and go on, and in all of the thousands of years that it has been discussed it has never been so near favorable consideration as

it is to-day. It is coming. There is no question about it in my mind. It is very true that traditions of long standing are not easily changed; reforms are not quickly accepted, or adopted, and this question of the rights of women will be no exception to the rule, and it will come. It is in the line of progression. The civilization of the world demands it, and the civilization of the age will have it. Who of us does not remember that only a few generations ago, the divine rights of kings were recognized in almost the entire earth, but as civilization advances, the minds of men, illuminated by the light of truth, lay hold upon the thought that the son of a king or emperor was endowed with no inherent right that was not also possessed by the son of the humblest peasant, and at the birth of this idea that all men were created free and equal, kingcraft received a blow from which it has never recovered, and since the day which has been referred to here upon the floor, when the barons of England upon the field of Runnymede demanded of King John a code, guaranteeing them protection in life, liberty and the possession of property, the idea that one class of citizens were endowed with rights above another, became less and less popular, until to-day the few kings that are left tremble upon their thrones, because of the voice of the people which is constantly thundering in their ears the great truth that all just governments derive their powers from the consent of the governed. Why, it is only a few years ago that here in our own land one class of men were deprived of the rights of citizenship. Yes, almost of the rights of human beings, for they were no better protected under the law, and in many instances no better treated, than the cattle in the field. They were chattels and were treated as such. But the time came when the aspirations which prompted the framers of the Declaration of Independence to say that all men were created free and equal,

took hold upon the minds of the American people, and they said that in this land of liberty there should be no more slavery nor involuntary servitude. It was in the line of progress, and the civilization of the age demanded it, and the slave was made free. Gentlemen, just as this question of greater civil and religious liberty for men and the emancipation of the slaves has come on, is this question of the rights of woman coming on for consideration and final judgment. And though the people may pooh pooh it, and attempt to brush it aside as a thing of little import, though invective may be hurled against it, and volumes of oratory uttered in opposition to it, it will go on and continue to be discussed until the civilization of this age will place woman where she belongs, not only the social but the professional and political equal of man.

There is one argument only that I have in mind to which I wish to refer before concluding that has not been made here upon the floor in opposition to woman's suffrage, and it is one, Mr. Chairman, that to my mind comes nearer to the pith of this matter, in very many instances, than any argument that has been produced, because it is a well known fact that men, should equal suffrage be granted, must of necessity come into competition with able, intelligent and capable women. A very prominent politician of this Territory, one, of course, who has no political aspirations, (politicians as a rule have none,) in discussing this question recently in private, after having made a very elaborate argument in opposition to woman's suffrage, after having recounted nearly all of the objections that have been recounted here upon the floor of this house, finally concluded his argument by saying (if I may be allowed to use such language here in the presence of these ladies), "that he'd be damned if he wanted any woman crowing over him."

Mr. MILLER. Mr. Chairman, I will

not occupy over five minutes. I anticipated the measure that has been sprung this morning to sidetrack this question. I want to say that I am opposed to the substitute offered. It has occurred to me since this discussion began that the strongest opposition to this measure comes from opulent Salt Lake City. I don't know why Salt Lake City and Ogden should oppose it. It is true that the ablest champion they have had so far on the floor is not of their city, but in concurrence with the delegates from the outlying counties, this same feeling has been manifested in them, that Salt Lake City and Ogden were arrayed against this measure for the purpose of either killing it or sidetracking it. I appeal to the delegates of the outlying counties and to all those who desire to keep their pledges, both democrats and republicans, to vote down this substitute, let's continue the fight, win or lose upon the main question.

Mr. PAGE. Mr. Chairman, I happen to be one from one of the outlying counties of the Territory, and I must say for myself and also for my constituents that I have not found that unanimity of sentiment in regard to this question that a good many on the floor of this house would have us believe. I was with some of my constituents at home, no longer ago than yesterday, and discussing the proposition with those of all classes and as far as I was able to meet them, they are almost unanimously opposed to this proposition. I want to say right here and now, that I do not hold myself bound by any platforms that have been garbled and jingled together for a sounding phrase to catch votes. [Applause.] I consider that we are here engaged in a nobler duty than drafting political platforms. I understand that we are here to draft a Constitution for the new State of Utah, and I insist that such a state of jingled, garbled garbage as is incorporated in the political platforms of both parties should have no weight.

here. I am opposed on other grounds to this principle of suffrage. I believe, too, that the people should have the right to vote upon it if they choose to do so. It is not unanimous by any means. The sidetracking of this question is only putting it where it properly belongs. Let it go to the people. Let there be a fair discussion and a fair consideration of the question. If they want it they will have it, but otherwise—

Mr. JOLLEY. I would ask of the delegate from Sanpete what those articles were put in there for?

Mr. PAGE. To catch votes. [Laughter.]

They were not framed there as a part of this Constitution. I appeal to every member upon the floor of this house, if those articles have to go into this Constitution or if they should cut any figure. I hold my pledges as sacred as any man on this floor, but I do not believe in making children of ourselves and following a blind lead on this question. I believe we should go down to the consideration of this question in a proper manner and give it the dignity and consideration it deserves, and act like men, not like children, afraid of our own shadows. I do not care whether it is democratic or republican powers that may be gained in this manner to go on the stump with. I believe we should consider it as a matter of what is best for the people. That is the way I look at it.

Mr. EVANS (Weber.) Mr. Page, you say that those planks in the platform were inserted for the purpose of catching votes. I will ask you if the women had the right to vote—women did not vote at the political election, did they?

Mr. PAGE. I believe not.

Mr. EVANS (Weber). Then whose votes would it catch?

Mr. PAGE. It was supposed to catch a certain party supposed to be in favor of that proposition.

Mr. EVANS (Weber). That is to

catch the votes of those who were opposed to woman's suffrage?

Mr. PAGE. Who favored the proposition—yes, sir. I do not think it was unanimous by any means.

Mr. ROBERTS. Would Mr. Page allow me to answer Mr. Evans?

Mr. EVANS (Weber.) I certainly will.

Mr. ROBERTS. I will tell you what class of votes it was intended to catch. There was a prevailing idea that the Mormon population of this Territory were favorable to that doctrine, and the party that took the lead in it made a bid for that vote, and to appeal to that people on that ground, and the other party undertook to outbid them in order to keep solid with the same class of voters. [Applause.]

Mr. EVANS (Weber). I desire to offer Mr. Roberts just a moment.

The CHAIRMAN. Mr. Page has the floor.

Mr. PAGE. I wish to say in reply to that proposition in regard to the catching of votes, it is a condition that as I understand it in this country (and I believe it to be only a supposition) that the people of Utah are favorable to woman's suffrage. They have had something of an experiment in that line, as stated by my eloquent friend on the other side of the house; it is more in the nature of a Relief Society measure, at which the gentlemen went to the polls and the women followed declaring their testimony. I understand that really to be more in the nature of that than a conclusion arrived at by which the people could not act or vote intelligently on the measure. I am inclined to believe to-day, that if this thing is thoroughly agitated and thoroughly discussed through the Territory of Utah that the opposition will be in the majority against a measure of that kind; as far as the rights of the ladies are concerned, I believe there is no one who will be more glad to allow them the

privileges to which they are entitled than I would be.

Mr. THURMAN. May I ask the gentleman a question?

Inasmuch as the gentleman from Davis County undertook to answer for you, I want to ask you if his answer in which he said that that was put in for to catch Mormon votes by your party, is entirely satisfactory to you? Is that true?

Mr. PAGE. On the proposition of Mormon votes or Gentile votes, I hardly think the question is a proper one here in this Convention.

Mr. THURMAN. I understand that you do not wish to answer as to whether he has stated your position correctly?

Mr. PAGE. The conditions that exist we are all familiar with, but it is as well in my opinion, to avoid the discussion of that question here upon the floor of this house. I believe that both parties are sincere and honest in what they are attempting to do, and that is to reach a higher plane than that upon which they have been operating in the years that have passed.

Mr. THURMAN. It, I understand then, it is all right in a political convention, to put in those things to catch a certain class of votes, but it does not do after you get elected, is that the idea?

Mr. PAGE. Not always.

Mr. CANNON. I would like to ask Mr. Roberts a question, as he is answering them for Mr. Page. I would like to ask who drew the plank in the republican platform at Provo, providing for equal suffrage?

Mr. ROBERTS. I was not at the convention. I do not usually attend republican conventions.

Mr. CANNON. I suppose, however, that you read the newspapers.

Mr. ROBERTS. I do not know who drafted it.

Mr. CANNON. The chairman of that committee was ex-governor Arthur L.

Thomas. It was prepared by him and presented, and if it was with the idea that the gentleman has answered, I never before heard it so explained.

Mr. JAMES. I would like to ask Mr. Cannon, if Mr. Thomas asked any advice from any other source, before writing that article, than his own individual self? [Laughter.]

Mr. EVANS (Weber). I would like to ask Mr. James, was there any gentleman in the republican convention that voted against the platform after it was drafted? [Laughter.]

The CHAIRMAN. That is not germane.

Mr. CANNON. I arise to a question of personal privilege. I have been asked a question, and if the chair permits a question to be asked, I demand the right to answer it.

The CHAIRMAN. If it is a germane question. The question asked by Mr. James is, what influence was had upon Mr. Arthur L. Thomas, or where did he get his advice?

Mr. JAMES. I arise to a point of order. I did not ask such a question. I asked if he consulted with others or did he write this article through his own personal volition, without consultation with other people?

Mr. MACKINTOSH. He did not.

The CHAIRMAN. I do not believe that is germane at all.

Mr. CANNON. I will say I do not know with whom Mr. Thomas consulted. I simply know that he, as chairman of the committee, brought it upon the platform and that he presented it as the report of the committee, and that if it did not voice his view, he should certainly have presented a minority report.

Mr. IVINS. I arise to a point of order. This whole discussion is not germane to the question before the house.

The CHAIRMAN. I think it is well taken.

Mr. KIMBALL (Salt Lake). Mr. Chairman, I have not offered to take

any of your valuable time during this Convention, but I feel duty bound this morning in justice to myself and to my moral convictions and upon this subject to state my position, and in justice to my constituents to say a few words. I am in the position of some who feel that they are bound by party pledges. I feel that I am bound by something stronger than this. I am bound with honor to my own convictions in justice to the gentler sex of our community. This principle cannot be changed in my mind by any amount of argument. It is true, I have listened here to the gentleman from Davis County, and other gentlemen who have spoken on this floor, but my opinion has not been changed. I am not my own servant, gentlemen, in this position. Were it so, I would consider that we were in a dangerous position indeed. I came here to represent the people, and in addition this is an inherent principle with me. I have understood it this way all my life. All my teachings have been to this end, and to-day I am satisfied, and I am sure there is no one on this floor that would question the fact that I have always been open to conviction and ready to receive truths from whatever source they may come. When I attended the democratic meeting in the theater and there listened to that declaration of liberty to the women, my heart rejoiced, though I will acknowledge here, that previous to that time, I had but very little confidence in the two political parties that were started out in this Territory. The position they took upon this question, whether it was to catch votes or not, gave me confidence in these two parties, that for once, if not before, they were doing justice to all concerned. I cannot understand it (and you will pardon me for speaking of the two political parties), how the democratic members on this floor can speak against woman suffrage. The very principle that got me on political lines was equal rights to

all and special privileges to none. [Applause.]

I do not place my wisdom as against that of the learned gentleman from Davis County, for,

I am no orator, as Brutus is;
But as you know me all, a plain, blunt
man,
That love my friend.

But if he is correct on this proposition, then the democratic party and myself are wrong. I have noticed too, with no small degree of pleasure, that the gentlemen who were being caught by his oratory, are not the solid democrats, but the people of the other party. Some person suggested to me yesterday, "Is not this thing well understood? Have not the democrats arranged to get Mr. Roberts to act in this capacity of decoying these fellows over?" Well, I do not think we are quite that small yet, but it looks very much to me as though that is what he is doing, and I believe the democratic party can afford to lose Mr. Roberts if he can put the republicans on record on this proposition, and let the democrats give suffrage to women. I only except one gentleman on this floor, who is better acquainted with the people of Utah than myself, and that is the honorable gentleman who presides over the Convention; it has been my privilege for years to travel from north to south, and east to west, visiting every hamlet and town and city, making acquaintance of the people in general, and I wish not to offend any on this floor, but I am going to say it is my experience, on entering any of the towns and all of the towns outside of these larger cities, that I find from one to twenty-five loafing bummers in every town, but do I see that with the women? It is my experience that there are from five to ten intelligent, well educated, refined and accomplished women where there is one man of the

rising generation who is equal to stand at her head and to be a husband to her.

Now, I am not extravagant in this proposition. It is an evident fact that the rising generation are dilatory, that they are careless, that they are not as industrious as they should be; while on the contrary the young ladies are using all their time to development to that extent, that they are rising away above the young men. Now, I ask this intelligent body of men, shall we say to the women, "You shall not vote, you shall have no say in these matters, but this element who is inferior to you shall come to the front, and exercise the franchise, and say who shall govern matters for you?" So I appeal to the honor of this body of men. I appeal to their wisdom and judgment on this proposition. And when I make this assertion, I do it in this way, that the people of Utah through their circumstances are different to any other people in the United States. Take our mothers, for instance. In early days here our fathers were frontier men, off in the canyons, out on the farm, out fighting the Indians, out on missionary work and in a hundred other pursuits which took them away from home and the mother was placed in the responsibility of being a father and a mother too. The experience that has come out of this kind of a life has placed our mothers on a different footing to that of the women in larger cities in the United States. Consequently our mothers, our daughters and our sisters, and all, stand not only abreast with men, but I dare venture on this floor that they are a long ways ahead in intelligence and in all the good qualities that go to make up men and women.

Now, I want to say, while I am open to conviction, I have heard nothing on this floor that has wavered me in the least. There is no man in this community that I respect higher than the honorable gentleman from Davis

County, and on all other subjects would accept of his advice, but when it comes to this matter I must reject it, and stand on my own footing right here, and stand for woman to have equal rights with man and not to defer it to come in at the tail end, like another proposition that we expected to submit to the people. Now, gentlemen and ladies, I expect to vote for woman's suffrage right here. With it, as Mr. Evans said yesterday, I live or die, I sink or swim. I expect to stay with it until it is consummated, and I have sufficient confidence in this body of men that it will be consummated right here, and that very soon.

Mr. HILL. Mr. Chairman, I have not yet raised my voice on this floor in the advocacy or defense of any proposition that has been presented. My early education in this respect is deficient; I am not a public speaker, it is not my sphere. It is something that I am unaccustomed to. I believe I am entitled to five minutes, and if the Convention will bear with me, I will make the statement that I shall not detain them for more than thirty days. I do not take this floor with the expectation of making a single convert, but I am certainly surprised this morning at the acrimony and the feeling that has been manifested by the intelligent portion of the gentlemen I see before me. It appears more to me that we are on the eve of a great revolution than on the eve of establishing or forming a Constitution upon which this great commonwealth may enter into the community of the numerous stars that now bedeck our banners and flag. I say that this is apparently our position, and if there is anything that has annoyed me in this Convention, it is for any non-Mormon, any ex-democrat or any ex that you wish to prefix to his name, to say that they have come here to work for the interests of his particular party. I was not elected for that purpose. It is my disposition and my nature to be conserva-

tive. But I certainly have been aroused here this morning, and not only this morning but on other occasions; and when listening to the eloquence that has been displayed by some of my associates in this Convention, I have been surprised to hear them this morning, after having said that this great Convention would produce such results that the morning stars would sing together—it appears to me that they are trying to bring the morning stars and the evening stars together to create a clash.

I believe, Mr. Chairman, that I to-day stand on this floor, occupying the position, and truthfully say I am one of the first, and oldest republicans in this Territory. I can recollect years and years ago when our esteemed President Wells and I used to converse together in reference to the political conditions throughout the nation. I was a believer in him. I believed in his principles. I believed that when we had placed at the head of this great American nation Abraham Lincoln, that we had one of the greatest republicans that was ever born, and to hear my friends get up here and take the positions that they do, and narrow this down until they have not a plank to stand on, I am surprised. We have heard a great deal about this particular plank in our different platforms that has cost so much strife. For the benefit of the republican party I will read—republicans agreed to it in Provo, and I am certainly surprised—it certainly astounds me to think that any man having any sense would take the position that some of us do here. Plank eighteen verbatim ad literatim [laughter] reads as follows: "We favor the granting of equal suffrage to women."

Mr. PAGE. May I ask you a question?

Mr. HILL. Yes, sir.

Mr. PAGE. Does that say that we must necessarily incorporate that in this Constitution?

Mr. HILL. I will answer your question if you will only give me time. I told you that I should not detain you over thirty days. You must excuse my abruptness, Mr. Page, I told you to commence with to bear with me, and I would like it understood, gentlemen, that you must excuse me for being in this position. I am certainly embarrassed, I am not accustomed to this kind of business, my knees will hardly carry me, but let me take thirty days and I will show you whether they will carry me. [Laughter.]

I will read this again so that there may not be any individual present mistaken.

"Section 18. We favor the granting of equal suffrage to women."

I have another one here, I will refer to this later. The republicans not only in Utah, but in this great nation, favor liberty. Some of our friends from the democratic side of the house will say, "Do the democrats not favor liberty? Do they not favor equal rights? Do they not favor representation?" What do the republicans do? They do the same. I attended that convention where that plank was adopted. The question may be asked of me, "Did you vote for it? Do you wish to support it?" I will tell you right here in my argument that I am a female suffragist, I want you to understand that. No matter what I might say or any other man in controversy thereof may say, I believe in female suffrage in this way.

We had an illustration at the Grand theatre the other afternoon, when probably the mothers of some of those young men who are making some eloquent speeches upon this floor were voting against female suffrage. You say this is not the case. There was a matinee held in the Grand theatre, there were ballots printed, they were passed among the ladies, and for some reason I do not know, I was not there, I was here listening to some of your stories, they only distributed those ballots in

the parquette, they collected the votes, the vote as I have it here in my hand; there were 282 in the parquette voted against female suffrage, and 180 in favor of it. What does this mean? What does this mean? I respect every lady who is upon the floor of this house to-day. I wish I had them all within the sound of my voice, and I would say unto them, "If the majority of you ladies in this Territory, if the majority of you ladies within the confines of the United States, wish female suffrage, I will get it for you if I have to take the bayonet and fight for it. [Applause.] But if my mother, my sister, or my daughter objects to me getting suffrage for her, I will take the bayonet and fight against it. A little anecdote occurs to me just now, and it is a good place to tell it. I have a little daughter, she will be five years old on the 23rd day of next July; she says I have become a very bad man lately, and I believe I have. "Why, says she, "I never can get you home now nights, unless I come to the store and meet you, and then you send me home and tell me you are going to those old meetings," says she, "every day you are going to meetings—every day, and papa, do you know what they tell me, they tell me that those men down there at that meeting that you are going to, are trying to make a little boy of me." "Why" says, I, "what is the matter my dear, that is a mistake." "Yes," says she, "You are, and I am afraid you are going to do, it and if you do I will never like you, because I do not want to be a little boy."

Mr. RICHARDS. I desire to ask the gentleman whether he believes that the result of the vote at the Grand theatre on last Saturday represents the view of the majority of the women of Utah Territory?

Mr. HILL. I will answer you as I did the gentleman on my right who just spoke, I will answer it by going on and referring to another vote that was taken, then I will reply to you. At the

Grand Pacific hotel, when there were quite a number of our lady friends present, they took a vote and it was similar to the vote taken at the Grand theatre. Now, I think I have answered your question, Mr. Richards. I do not think it is necessary to say anything further. I am unequivocally in favor of woman's suffrage if they want it, and it appears to me in those two particular places to which I referred a majority voted against it, and I am confident of this—I had my speech all arranged, Mr. Richards, as you did the other day, but you fellows knocked me out of it. I am not as composed as you are. I am not accustomed to it.

Mr. RICHARDS. I hope the gentleman will excuse me if I have embarrassed him, I certainly did not intend to. I think it would be impossible to embarrass him.

Mr. HILL. It certainly is. [Laughter].

Now, we have had petitions from females throughout this Territory presented here to this Convention for us to legislate to enfranchise them. I know not how those petitions were presented, but I do know that I as an individual have had some experience in having petitions presented to me, and my presenting petitions to others. For example, Mr. Richards comes to me, or Mr. Roberts, or Mr. Ivins, or any other gentleman; he has a certain scheme he wishes to accomplish, he probably states to me what he wishes to accomplish. He ask me for my support and signature, I give it to him, and in one particular instance, I cannot think of just now—

Mr. FRANCIS. I wish to ask the gentleman if that scheming operation applies to the Grand opera house election last Saturday?

Mr. HILL. If you will kindly not anticipate my answer you will get it without asking. [Laughter.] During the last campaign there was a petition brought to me to sign in favor of a prop-

osition that I certainly favored; it was a proposition to make silver 16 to 1, which is an awful difficult thing to do, we have experienced that. The parties bringing me that petition read it, it was brought up with a great many signatures to it; there were a great many sheets of paper; I signed it. The next time it was presented to me, it presented a very different appearance from what it did before, it was in support of a party measure of which I am not a member, but was being presented by the populists instead of the republicans. I therefore, had to ignore it. I do not think for one moment—that answers your question—I do not think for one moment that the majority of the ladies of this Territory would vote against being enfranchised, if they thought they could enjoy all the rights and privileges that the gentlemen do without having the trouble to acquire or pass through the difficulties the gentlemen have to, though I want to state right here, and have you understand that my mother in her tuition of me, in her bearing me and making a man of me endured more than I ever have done in justice. I speak of her in that way, and the only ability that I possess to-day was given to me through her teaching, and I honor her, and I honor every one of those ladies who are present here today, in the interest they are taking in this matter. Probably gentlemen will go to asking me now, if I am a married man; I presume that question will be asked. Why there is not a lady in the house at present but what admires me. [Laughter.] They know I am pretty, and they admire the position that I take in their behalf and our behalf.

Mr. CREER. Mr. Chairman, I now emphatically insist upon the rule.

The CHAIRMAN. I think the Convention suspended the rules by its action on Saturday.

Mr. CREER. I do not understand it so.

The CHAIRMAN. I think it worked a suspension.

Mr. CREER. Some of the gentlemen have been confined to the five minute rule.

Mr. HILL. There are some who have not spoken yet that will give me an hour.

Mr. CREER. I object to their giving a history of their life, and the life of their mother, and the Grand opera house, and the Pacific hotel and all that sort of thing.

Mr. JAMES. Mr. Chairman, I arise to a point of order.

Mr. CREER. I insist upon the rule. The rule was that each member should speak five minutes.

The CHAIRMAN. I do not think the objection is well taken.

Mr. HILL. May I proceed, or am I ruled out?

The CHAIRMAN. Go on, Mr. Hill.

Mr. HILL. It was stated here on Saturday, by some party, that during our entire campaign it was presented before the different primaries, and the stumpers throughout the Territory had stumped in favor of female suffrage. I, unfortunately for me, as I stated sometime ago, was among the oldest, if not the oldest, republican in Utah—I fail to recollect, at any of our primaries, at any of our meetings, to have heard the question of female suffrage discussed from the platform or the rostrum, and I wish to say that I consider, as my remarks indicate, that the proper thing for the Convention to do is to introduce a plank in our Constitution giving the ladies the privilege at our coming election of voting yes or no on this proposition, and in that article specify that it may be the duty of our next Legislature, if the ladies so desire from that expression, to give them the elective franchise.

Trusting and thanking you for listening to my rambling remarks, I give my place to another speaker.

Mr. RICHARDS. Before the gentle-

man yields the floor, I desire to remind him that he kindly promised to answer my question and undoubtedly has overlooked it. The question I asked the gentleman is this: Whether or not, in his opinion, the majority of the women of Utah favor or oppose woman's suffrage?

Mr. HILL. My opinion would be of very little value to this Convention, for the reason that I am not sufficiently among the ladies to know their desires and wishes, and it would be inexpedient for me to answer that question.

Mr. RICHARDS. Then I take it you decline to answer?

Mr. HILL. No, sir; I say it would be inexpedient as I do not know. I do not know, sir.

Mr. RICHARDS. I ask your opinion, that is all.

Mr. LAMBERT. Mr. Chairman—

Mr. WELLS. Mr. Chairman—

The CHAIRMAN. Mr. Wells.

Mr. WELLS. I am a little out of place but I desire to be considered in the ring.

Mr. LAMBERT. Mr. Chairman, was I not recognized before Mr. Wells spoke? I want the privilege of asking a question.

The CHAIRMAN. I did not recognize you.

Mr. WELLS. I desire to say to the gentleman that I have a speech in my pocket and I feel very much like a hen that wanted to lay.

Mr. LAMBERT. Read it.

Mr. WELLS. When gentlemen who are opposed to prolonging this debate voted on Saturday to adjourn until today without bringing this question to a focus, they did a most injudicious thing. For they unwittingly afforded members like myself who are unaccustomed to public speaking an opportunity to prepare written remarks and thus subject the committee to a deluge of manuscript speeches it might otherwise have escaped.

But inasmuch as the discussion has

taken so wide a range, I take it there is not the same disposition to cut off debate that existed a few days ago. In view of some of the sensational remarks of gentlemen I am willing that every man in the Convention should have an opportunity to speak, as I believe if there is distrust or suspicion or sentiments of fear lurking in the hearts of members as to the effect of the adoption of this section, that like the measles it is better out than in. Let us partake of the hot saffron tea of conviction, then wrap ourselves in the warm woollens of debate until we are red with the rash of wrath, and then see if we cannot agree upon some medicine that will dissipate our rage and put us on the road to convalescence, and finally to a healthy and permanent understanding.

There seem to be phases to this question which have been enlarged upon by gentlemen: first, as to the rightfulness of woman suffrage as a principle; and, second, as to the expediency of adopting it and putting it into the Constitution of the State of Utah.

I know a clever little woman who owns and runs a boarding house in this city. She pays annually in taxes something near a hundred dollars. But she has an average of about ten men who board there. The aggregate of their taxes, I do not suppose, would reach \$50, because the most of them pay only poll tax. The other day there was an election in this county to determine whether the county debt should be funded by the issue of bonds.

It was a question vitally affecting the property interest of that little woman. All her boarders went to the polls and voted. She could not vote. Was that right? But gentlemen have said in such cases a woman may get her brother or her husband, or if she has not any, get her neighbor to vote for her. Let me ask the gentleman who made this argument, if he would be willing to let his neighbor vote for him on a question that affected his pocket? Now, if the

woman who owns property ought to have the right to vote upon that financial question, what reason is there for denying her the right to vote for the men who are to assess the taxes upon her property? The right of representation to all persons who are taxed is in my opinion an inherent right and a right which in this country was declared over a hundred years ago to be formidable to tyrants only. I have heard no plea that in the slightest degree swerves me from the belief that property owners, male or female, ought to have a voice in the government. Such rights are accorded to women in many of the states and in the old country in many of the nations. To deny this right to woman is to deny her a right recognized and accorded her even in monarchical governments.

Great Britain is governed by a woman. We will suppose that she should tire of the vexations of politics and public life and should seek an asylum such as the gentleman from Davis has alluded to, where she might remove her crown, comb out her bangs, put on her mother-hubbard and enjoy herself free from the restraints of royalty. Our government offers an asylum to the oppressed of every nation. Supposing she came to the United States, threw off her coronet and all allegiance to the mother country, became naturalized, as she has the right to do under our laws, settled down in Utah, and bought that magnificent residence in this city belonging to Mr. Mackintosh, would the gentleman from Davis or the gentleman from Salt Lake, both of whom I am informed were former subjects of her's, deny Victoria the queen, who erstwhile ruled over them in England, the scanty right to vote as a freeholder in this great land of liberty and equal rights? I think perhaps Mr. Roberts would not deny the right, but I am inclined to believe Mr. Mackintosh would want to know whether or not she belonged to the church. As for me, sink or swim, I

am ready to vote first and last and always in favor of the franchise for any woman citizen holding in her hand that invincible credential, a property tax receipt. Now as to the rightfulness of extending the franchise to all women citizens regardless to their property rights. While not an ardent advocate of woman suffrage in this extended sense, I cannot see the justice of withholding the right to vote to an intelligent woman and giving it to an ignorant man. I am an admirer of modesty in women, and I confess there is a charm for me about the woman who says she does not desire to vote. I do not wish to be understood as intimating that there are not many modest women who desire the franchise, but I say that all women, whether they be modest or brazen, if they have the requisite qualifications of age, and citizenship, should have all the political rights, if they desire them, of modest or brazen men. Governments derive just powers from the consent of the governed. If women are governed they must give their consent or there is no just government. How can they give their consent? Through the ballot-box, as that is the authoritative expression of the will of the people. Women are certainly a portion of the people, and the people are the source of all political power.

It has been argued here that the ballot belongs exclusively to the men because there ought to be a bullet or a bayonet or a dirk, or some dread instrument of war behind it, the inference being that men have in some way earned the distinction by fighting, and as woman cannot fight she ought not to vote. To me this is the merest nonsense; if liberty was won by bullets and if men were behind the bullets, behind the men was the heroic devotion and the uncomplaining endurance and suffering of women. It was a mutual sacrifice and one in which the women of our country exhibited as high

courage and as constant a patriotism as men. The result of these mutual sacrifices was liberty in its national sense to all its people, yet only half of the people are really free, if perfect freedom is obtained through the ballot box. But if only those who have borne the shock of battle are entitled to vote, the executive head of this nation, the great Grover himself, would be disfranchised, as it is given out he hired a substitute. And how many of the gentlemen upon this floor have ever stood the brunt of battle. It has not come to my knowledge that many of us have "smelt blood, sah," in defense of our country's flag and thus earned in the sacred name of liberty the inestimable right to vote and pay poll tax. By such logic the franchise would belong exclusively to the military, and male civilians as well as women would be disfranchised. There has come to this Convention at various times among other estimable women, one whom I have especially in mind because she has all the grace and charms of her sex. She is a cultivated and intellectual woman, descended from revolutionary forefathers and related to one of the greatest statesmen that America has produced. She would consider it an inestimable privilege to be allowed to vote. Will gentlemen argue that it is right or just or decent to refuse her the franchise and bestow it upon Eph Kelly and Galleazzi? Other women who have come here who in point of ability are the peers of many of the gentlemen upon this floor. One of them is my aunt, and she is capable of making an argument upon this floor if she were permitted that would make the opponents of suffrage retire from this committee of the whole and pull the hole in after them. Some gentlemen have said they never fell in love with women on the platform, and that they would not like to hear their wives speak in public. More than likely their wives would not care to hear them

either, unless they made better speeches than the majority of those against woman suffrage. Now, my position thus far is this: Firstly, women who own property ought to have the right pre-eminently to the franchise for the reason that taxation without representation is a species of tyranny that an American ought never to be guilty of. Secondly, women who want the franchise and the political rights that go with it, ought to be accorded the privilege because there is no justice in an aristocracy of sex. If women want to go further and part their hair on the side and sing bass, I have no objection. Give her all the rights she wants, and let her be responsible for their abuse. The women who do not want such rights need not exercise them. There would be no compulsion about it. There is no law that compels me to go the polls if I prefer to go fishing, so women could stay at home if they chose. Now as to the expediency of conferring the franchise upon women in this Constitution. The great overshadowing objection to it urged by its opponents is that it will be a menace to statehood because it will create forty thousand new voters whose politics are unknown, unsettled and uncomfortable, and a terrible unrest exists in the minds of many that these new voters will not vote the way they want to but the way some one else wants them to. I had thought it had become to be accepted as aphorism that:

When a woman will she will, you may depend on't,
And when she won't she won't, and there's an end on't.

That is, they usually have minds of their own and that they are not the weak and vacillating creatures gentlemen make them out to be. But the gentleman from Davis County, while he admits that he thinks that they will vote according to their own convictions, is quite clear that other people have a deep-seated fear that they won't, and

that we must take cognizance of this fear as a deplorable fact, and hence withhold the franchise. My friend from Salt Lake, Mr. Mackintosh, confirms this fear in a minority report and also in an excited speech, in which he endangers the lives of all of us in his immediate proximity by the violence of his gesticulations with a silver-mounted cane, and in which he declares he had an overwhelming and terrific terror that the forty thousand women might vote men into political office by the uplifted hand the same way that the two thousand women in the big tabernacle voted to sustain the authorities of the church twice a year. I give the gentleman credit for honesty in this sentiment of fear, and yet I am of the opinion that if he could in any way ascertain that the majority of these voters would find lodgment in the republican camp, it would do away with much of his antagonism to equal suffrage.

I remember a friend of his, at the time of the division on party lines, said he would stick to the old liberal party to the last, and when all the rest of the party had deserted it, he and his friend would be seen walking up the street carrying the old liberal banner. Yet, when he saw the new voters by the thousands going to the polls and voting his way, he said, "Let her go, Galigher, its all right."

I have not much patience with these continued assaults on the integrity of one class of people of this Territory. I think they have demonstrated their perfect sincerity in politics and I have understood that Mr. Mackintosh and his friends thought so too. But I am wondering now how long, O Lord, how long this period of probation must last. I doubt if the Millennium will be long enough. When the angel Gabriel blows his trumpet, on that great final judgment day, summoning us all to arise and report progress, I shall be surprised if my friend Mackintosh does not peep out of

his mounted sarcophagus and say, "Hold on, boys, till we see whether that old fellow with the horn isn't Moroni instead of old Gabe." Now is it possible to satisfy those who share this distrust? Can we do so by submitting this proposition in a separate article? No; because they know that it would carry anyway. Can we satisfy them by leaving it to the Legislature to regulate it hereafter? No; because they know the sentiment in favor of it is so strong that the Legislature will pass a bill conferring it at the very first session. What are we then to do? Vote against our convictions and the pledges our parties have made? My reason and sense of justice revolt at the idea. For seven months it has been known of all men and published far and wide that the republican party in Utah had pledged itself to woman suffrage; in all that time no voice has been raised against it. Neither from the press or pulpit or platform has one word been uttered opposing the measure. Why, if all this fear existed, has it not been expressed before? Why have not myself and others been taken into the confidence to discuss the matter with them? Why do they wait until the question is brought up for discussion on the floor of this house, and then cast unwarranted suspicion on the sincerity of a movement that has been agitated so long? As for myself, while as I have said I never was and am not now an ardent woman suffragist, I am convinced that duty to my party and to my own self-respect demands that we, republicans I mean, meet this issue squarely and be true to ourselves in spite of the groundless fears in the hearts of men who can live side by side with their neighbors a lifetime and then in a supreme moment, without warning or notice, cast suspicion and distrust upon them. If we do not meet this issue now, it must be met in the near future. No gentleman that has spoken but admits that it is coming.

To thine own self be true
And it must follow as the night the day,
Thou canst not then be false to any
man.

Do gentlemen hope or expect they can change the sentiment of the people of the Territory on this question? The gentleman from Davis, with all his eloquence, knows he cannot do that. He may succeed in stirring up sedition and suspicion, but he cannot stem the tide of public opinion.

Will stalwart oak take root and grow,
Will last year's roses bud and blow,
Will rivers turn and backward flow?

The woman suffrage movement is dancing down the corridor of time, gentlemen; you may as well all choose your partners and balance to the lady on the left.

After recess.

Mr. Cannon offered a resolution that at 3:30 p. m. Mr. Roberts be given the floor for the purpose of closing the debate.

Mr. CANNON. Mr. Chairman, I realize that this can only be done by unanimous consent under our rules. A little over 18 hours have already been consumed in the discussion, but this gives an hour and thirty minutes to close the debate, and at that time Mr. Roberts will be granted the floor. I think it would be better to fix a time for one thing, in order that Mr. Roberts may know when he is expected to speak. As it is he has been waiting for nearly two days expecting to be called upon at any time, not knowing when his speech would be expected. I offer the resolution and move its adoption.

Mr. MURDOCK (Beaver). I second the motion.

Mr. BUTTON. I object, Mr. Chairman, for the reason that some gentlemen here have had all the time they wish. Now, let the other gentlemen have the same privilege.

Mr. THURMAN. I think a single objection kills the resolution.

Mr. LAMBERT. Mr. Chairman, I have

sat here patiently and listened to these long discussions, and this is the first time I have attempted to trespass upon your attention, but this is a question of vital importance to the people of Utah and of the United States. It is a question that all eyes of this nation and other nations are looking for, the advancement being made by the people of this country tending towards the enfranchisement of woman. The progress of the age is marked in that direction, but gentlemen, when I look at this question as it has come before us by the report of the committee, I am led to think that in those propositions are too much legislation. We are here to formulate fundamental principles, and the balance should be left for the Legislature to arrange in the future. We are not here to enact all the laws that are necessary, but simply to formulate that fundamental principle upon which laws shall be founded. I am in favor of suffrage, but I am not in favor of granting to women all the rights that men enjoy. I don't think that the ladies of this Territory ask for all those rights and privileges. One gentleman said this morning, that he was acquainted with the people of this Territory. I claim that I know more people in Utah than any other man upon the floor. For years I have visited their homes. I have mingled among them. I have talked with the mothers of Utah, with those of intelligence, and conversed with them on this principle that is before us to-day. I have not yet met one intelligent mother who has asked for the position of sheriff; I have not met one yet who has asked for the position of constable. I have never met one who has asked for the position of justice of the peace. But they asked for the right of franchise, for the privilege to vote upon those questions that materially affect them. They ask it in reason. They ask that they may be privileged to vote upon school questions, upon questions where taxes are

to be levied, upon questions that create indebtedness, but they do not ask to hold all these positions that are incompatible with their sex.

Saturday, after the discussion was through, I walked down the street with some ladies of experience and intelligence. A gentleman was along who was opposed to this movement, and pointing to a person down the street on a bicycle, he said, "There is the coming woman on the street in her bathing suit. By and by she will have a star upon her breast and will arrest wrongdoers upon our streets." I think it was far-fetched, and I reiterate that I am in favor of granting the right of franchise, but when we come to claim for her all the rights and privileges that are accorded to male voters to-day, it is inconsistent, it is incompatible with reason. Who of us would like to see our wives and our mothers or our much beloved sisters in the jury box, locked up night and day while the question is being discussed among the jurors? I would not like to see it. I remember once over in Wyoming soon after equal suffrage was given to the people of their state, that a lady in Green River was elected justice of the peace. The boys filled her husband up with liquor and then took him before her to be tried for that misdemeanor, and she fined him and resigned her office. I do not wish to see such spectacles in this country; but I found in traveling from Idaho in the north to Arizona in the south, visiting every settlement of Utah's people, women of intelligence, woman capable of discussing intelligently all the questions that were before our male voters. I have found some of them deep thinkers, but I have yet to meet one who has asked for office, who ask the same privilege to sit on juries or to officiate in these different offices that men occupy, and I say that we should be careful in our work here, that we do not perform the work of legislators, that we leave those things for legisla-

tures. It has been asked here what have the mothers of Utah taught their children? I can tell you from experience, because I was raised by a mother in Utah. They have taught them to be patriotic, they have taught them to love their country, they have taught them to revere the Constitution of the United States as a God-inspired instrument. That is what the mothers of Utah have taught. That is what the mothers of the future State will teach their sons and daughters, to love this great and glorious country of ours, to revere its laws. And when we go back into the buried past, when we resurrect things that have been dead and buried, we stir up a stench that is nauseating. Let us live for the future, let us enact things that will please us in the future, that which will make our State shine with glory, and let us lay aside what has been in the past in the hope of the glories of the future.

We can afford to live for the present, with hope extended out to the future, and let us live in that way; but let us not legislate in making that instrument that we hope will please and benefit mankind. Let us give to the women of Utah the franchise and then let us leave the rest for our Legislature to do.

Mr. CORAY. Mr. Chairman and gentlemen of the committee, this is the first time I have occupied this floor since the Convention convened, and I promise you that I will not detain you very long. I am not practiced as a public speaker and I did not think to have spoken on this question, but my constituents from Chicken Creek demanded, and therefore I will be obliged to accede to their demands. It has been asserted here on this floor by gentlemen from different parts of the Territory that this question was introduced into the platforms of the different parties, that is, the republican and the democratic parties, for the purpose of catching votes. I was not a member of either of these conventions, and I do not know what

their motive was, but this one thing is very evident, and that is. that if it was the motive to catch votes, they were eminently successful in doing so, for they got every vote in this Territory excepting about 500 populists. It has also been asserted that this action is premature, that the people are not ready for it, that it has not been discussed. Why, gentlemen, I submit that this question has been before the people for the last twenty years, or at least, ever since the women of Utah were disfranchised. It has been discussed by literary societies, it has been discussed by the teachers' associations, it has been discussed by the debating societies, it has been in everybody's mouth for the last ten or fifteen years that I know of. Ten years ago, when I was going to school in Ogden City, I remember distinctly that this question came before the teachers' association there. Professor Lewis was the principal of the high school and he and his corps of Ogden teachers discussed this question for two or three nights that I remember. It first came up in the shape of a resolution that women should have the right to higher education, and then from that it went to woman's suffrage, and it has been discussed in the Salt Lake Theater, it has been discussed everywhere, and I claim that the people are ready for the question and were ready for it when it was submitted to them for their approval in the different platforms of the two parties. And if there is anybody who doubts it, I wish to call their attention to the action taken by the the people of Davis County, in calling on Mr. Roberts for his resignation for opposing this proposition. No, gentlemen, I think it would be better for us to keep our pledges. Let us form this Constitution on the principles of justice and right, then Utah the divine, Utah the sublime, will take her place among the galaxy of stars that bespangle the great American flag, and there she will shine as the dogstar Sirius now shines

from the zenith when Morpheus folds Apollo to his breast; and like Sirius, the brightest star in the firmament, whose beams almost penetrate the immensity of space, her light will shine forth in ever-divergent rays through the incalculable cycles of time. Gentlemen, I shall vote against every substitute to this proposition. I shall sustain it pure and simple as it is. I wish the reporters of the press to write me down in favor of woman's suffrage. I want them to underscore it, and I want them to follow it with three exclamation points, that I for one, gentlemen, am in favor of woman's suffrage. I need no pledge. I have been pledged to the party, I have pledged myself to the people of Juab County, but so far as that is concerned, I do not need any pledges, I will vote for this proposition without any pledge.

Mr. EVANS (Utah). Mr. Chairman, I have waited long and patiently, hoping that peradventure I might be able to see the end of this discussion, but it seems to me that it has taken upon itself the form that it has become necessary that each delegate shall express his views upon it, and that as long as he desires. I would not deign to mingle my views with others of this intelligent body, were it not for the fact that I feel that the head has said to the foot, "We have need of thee;" and taking that view of the question, I concluded that it was necessary that I should express my views upon this question. Going back to the history of our world, I remember reading where the great Creator, when He had rolled into existence the earth, He divided the darkness from the light, he had created fish that they might permeate the waters, noble fowls that they might soar amidst the heavens, the green verdure that it might make beautiful the earth, and at last it was concluded that there must be some being to dominate those conditions, and the great Ruler of the universe said: "Come, let's go to and make man." He proceeded

to make man in His own image—"In the image of God created He him, male and female, created He them." Sir, when this first proclamation was made, the word man included woman. Through the long ages of history there had been periods in the world's history when that was almost lost sight of, and in tracing down the history of the past we are confronted with the fact that to the greater extent that that separation is made, just to that degree has woman been placed beneath man. As nations have been uncivilized, so also have the fairer sex borne the burdens of that generation. When we come forth unto the period of our own country's history, we find again that the immortal Jefferson brought forth this declaration: "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain inalienable rights, among which are life, liberty and the pursuit of happiness." Governments were instituted among men to secure unto them these inestimable privileges, and "All governments derive their just power from the consent of the governed." This, through the past ages of history, was the first time that the declaration was uttered that all men are created equal, incorporating women. Reverting back to the great proclamation that was made by Him who rolled the world into existence, Thomas Jefferson re-enunciates that great doctrine. Mr. Chairman, we have heard upon the floor of this house, men who have towered like giants among their fellows. They have taken the question upon either side, they have discussed it ably, they have discussed it as I believe honestly, but it is evident and apparent upon its face that some are right and some are wrong. It is recorded in ancient history by one of the great prophets, that if you speak not to the law and to the testimony, if you speak not according to that, it is because there is no light in you.

We have had the history of this ques-

tion before us. Taking our own fair Territory here for an example. The women of this Territory exercised the elective franchise for seventeen years, and I have yet to see the first gentleman who has taken the other side of this question point to a single instance where they have disgraced that sacred trust.

I have noticed in looking over the papers here, that we have some testimony that comes from those upon the east of us, and I shall beg indulgence to read it, it is short:

Governors of western states on woman suffrage.

Baltimore, March 31st.

In the discussion of woman suffrage at the Friend's Circle last night, J. K. Taylor, president, read extracts of letters which he received from governors of western states.

Governor Morrill of Kansas writes, "There has been no complaint. It seems to be successful."

Governor McIntyre, of Colorado, "Their advent into political life will positively and permanently benefit all the people."

Governor Richards, of Wyoming, "Women are allowed all the privileges men have in voting. They are not allowed to sit on juries and don't ask for it any more than they ask for military rights."

Justice Groesbeck, chief justice of the supreme court of Wyoming, says, "It has been tried and not found wanting."

I submit to you, Mr. Chairman, that here are the declarations. We may perorate here from early morning until close of day, but as the prophet said of the testimony, "If you speak not according to that, there is no light in you." Here are men who are speaking by the testimony. The great executives of those states with one accord rise and say that this question has been weighed and not found wanting. By the experience of our own Territory for seventeen years it was weighed, and so far as the people who have the right to judge and investigate that question here, it was not found wanting. By peculiar conditions by which we are surrounded,

and to which I do not desire to refer, it was taken from them, and I stand here as an advocate of the right of woman. It has been said by eminent gentlemen upon this floor, who battle and grapple and struggle with the strifes that are inherent to the political arena, that they should have a home in which they might retire, and that they might rest from those labors, and that the peaceable influence surrounding the hearthstone shall gladden them in their respite. Mr. Chairman, I submit that there is not a man that will stand upon this floor and will undertake to say that that influence does not permeate the home; and I want to say to you, Mr. Chairman, that my firm conviction is, as I stand before you this afternoon, that if those good ladies with that refining influence can make it peaceable, can make it quiet, can make it happy and the place of respite for the individual man and the children that inhabit that domicile, so also can the aggregate of women bring our politics upon a higher plane, until it all will be happy and peaceable.

I come here from a county where I went before the people and told them in almost every hamlet and village, that I expected to come to this Convention, if elected, and stand upon its pledges. I read the platform or that portion of it relating to woman's suffrage, and I told the people that I expected to be found upon that side of the question. It has been stated upon the floor of this Convention that men did not feel themselves bound to party pledges and their platforms. Let me beg your indulgence for a moment and ask those gentlemen whether it is a fact—whether that is true or not? I will read from the platform that was adopted last fall upon which every delegate that is here was elected, or at least the democratic ones, and I take it for granted that the same principle will apply in behalf of every delegate from the side of the majority in this Convention:

We demand that economy shall rule in all branches of the public service. That public money shall be expended only for public uses, and that no class of the community shall be especially favored by the State to the detriment of any other class.

I submit, Mr. Chairman, is it a fact that gentlemen will stand upon the floor of this Convention and tell you that they should not be expected to carry out that pledge as set forth by the representatives of the democratic party in Convention assembled? If they tell you that they violate that with impunity, then I ask, where is the end? What is the necessity of a platform at all? What are our declarations to be rested upon, if those principles are not to be recognized after we have received the honest vote of the honest people? I say to you, Mr. Chairman, that while upon the floor of this Convention there are men who can express their ideas more clearly than I, who are able to clothe them with more flowery language, who will interject into it more rhetoric, but I say to you, Mr. Chairman, I trust there is not a man upon the floor of this Convention that will be more honest to his convictions than will I. I went before the people with that declaration, and I have consoled myself under this thought while listening to this grand oratory, and I have felt proud that we have had powers of strength looming up among the nations of men that were able to maintain their position, though as I believe mistaken ones; I have consoled myself with the fact that when the record shall be called upon this question I will be as strong as any man in this Convention, my vote shall count one, and his can do no more, and that shall be in favor of that section of the bill as reported from the committee, with every pledge held sacred in regard to this platform. [Applause.]

Mr. FRANCIS. Mr. Chairman, and gentlemen of the committee, I shall not worry you with any very long speech.

But I thought it a duty incumbent upon me to rise and speak my impressions and convictions upon this great and important question. I am opposed to the substitute presented here this morning. I am opposed to the minority report. I am in favor of the majority report as it is incorporated in section 1; I shall vote that the women of Utah shall enjoy equal rights with their fellow men. I do this from the convictions of my heart. I do not come here cringing or bowing to any party or to any person. I have been convinced for many years that this is a right that our mothers, daughters and sisters ought to have had long ago. It is a right that has been long deferred, but I am thankful that it is coming, that there is a majority in this Convention that is willing to vote for it, and I do not look with pleasure upon the pleas that have been made here to dissuade us from our fealty, from our duty, as we owe it to the people who have sent us here. It has been said by gentlemen upon this floor, that during the late campaign there was no mention made of woman's suffrage. I say so far as our county is concerned, it was said there, and the public speakers, democrats and republicans, that came there, said that a vote for their party meant the incorporation of just such an article as is incorporated by the committee, giving to our women equal rights with men. There are great fears resting down upon some that feelings may result from this. I can say that I have no such fears. I believe that woman will find her place in the government as she does in the home. She will not seek any position that she is not qualified for. She will not be hunting for something she does not want, and we all know that her natural modesty will not ask for this. There may be some unnatural outgrowths, as there are amongst our own sex, which we may disclaim, but the women will help us. They will have an influence for good in our society. I have listened,

like you, to the orations of honorable gentlemen here holding up views against women. My mind has been open to conviction, but I have heard nothing that has weakened my knees, or that has in the least changed my mind. I have heard some very startling assertions, that I never expected to hear upon this floor. When it has been declared in very emphatic language that man is born to rule and woman to obey. I hear this as the very essence of despotism. It was the proclamation of kings years ago and perhaps is today, that they by the right of God are inherent to rule and the people to obey; it is the same principle I understand that this is founded upon antediluvian revelation; but I wish to say, gentlemen, that we have modern revelations; God has spoken in our day; He has given us revelations in the Declaration of Independence and the Constitution of the United States. It is the great magna charta of our country. It is the highest authority and the greatest authority from which we should speak, because from it we derive all our rights, and we should be willing that our mothers, our daughters, and our sisters should enjoy these. And can we say, speaking from this authority, that our mothers, our daughters and our sisters should not enjoy this right? It has been said that one of the speakers here last Saturday was inspired. Gentlemen of the committee, and Mr. Chairman, I wish to say that we all ought to be inspired like our fathers in this work, and it should be our desire to do that which is right, that we should give unto our people that liberty that they ask for and that we have been sent here to give them.

Without worrying you further, I will say that I shall hold up my hand,—or I shall say yes when it comes to the vote to give unto the women of Utah the same right we now enjoy.

Mr. SNOW. Mr. Chairman, my colleague from Washington County this

morning told the committee of the platform upon which he and I were nominated to this Convention. Unlike a great many delegates who have seats in this deliberative assembly, as it appears to me, we brought along with us, with our credentials to this Convention, our convictions, and those convictions were in line and in harmony with our platforms, both state and county. I pity from the bottom of my heart men in this Convention who did not bring convictions here with them in line with the principles as enunciated and laid down in their party platforms. I see here men who get up and argue against their judgment—and say that their judgment—their convictions, their conscience is opposed to their platform, and yet they will vote it. If there is anything that comes within the definition of hell I think this does, “to want to and can’t.” They want to oppose the insertion of an equal suffrage plank in the Constitution, but they cannot because they are bound down by a party chain and they are surrounded with flame that has no end, and the worm that dieth not.

I tell you it must be gall and wormwood to them to sit and listen to the scathing denunciation of insincerity by my eloquent friend, Mr. Roberts from Davis County. I am proud of this gentleman that he belongs to these mountains and was reared here, and that he belongs to the democratic party. Unlike a fellow democrat upon this floor this morning, I would not trade him for all the republicans in Utah. [Applause.]

I hope that he will always be with me shoulder to shoulder in the democratic ranks. These are his convictions. I honor him further, he has a power to make the most of every point that is in line with his convictions, and differ from him as I may, I cannot but admire his courage, and that he is invoking in this Convention some little courage in others with like convictions. I believe that he and others that have opposed their

party platforms upon this question, have built up a mountain of fires and prejudices that appeals to the selfishness of man. I do not believe they have opened this question upon a broad liberal view. It would be useless and presumptuous in me, Mr. Chairman, to go and argue in favor of woman’s suffrage upon its merits after we have heard so many speeches on this subject, but there is one thing that I do not think has been touched upon here yet, and that is the economic question of woman as she applies to the social economy of this State. We have forgotten or gentlemen have overlooked the fact that woman is fast becoming an industrial class in social economy.

They have forgotten that it is the tendency of the age not to marry women, but to let them enter the race in life with men upon the principle that there must be and necessarily is a survival of the fittest, and when woman enters this race she enters so handicapped and discriminated against, that she has no voice in the questions that are of vital importance to her—her labor and the produce of her labor.

Mr. Chairman, I say woman is fast becoming the industrial class. The history of the world shows that along the line of a free ballot labor has its just rewards, and when you disfranchise a class, you discriminate that class, you decrease the demand for their labor and the remuneration for her labor. And again, I will tell you what you do when you discriminate against that class, you degrade their labor, you degrade their situation in life, and it too often occurs—it too frequently happens, that from that employment follows the public example. Mr. Chairman, I think that while we are entering upon a new State that now is the time to give equal suffrage, if we ever intend to give it at all. Why? Because this is the principal argument, it is the great objection in all the older states where this question is discussed. In New

York in the constitutional convention the great objection and the only one that carried weight with the members of that body was this:

That if woman was given suffrage she would enter into sharp competition with men, not only in labor that had already taken its defined line, but she would have a ten-fold force of power to force recognition of that labor, and the remuneration for that labor which man had intended not, and that it would cause an advance of thirty-three and one-third per cent. in her wages. It is because of the position that woman will hold and acquire in social economy, that the opposition to woman's suffrage comes principally in the eastern states. And I therefore say that if woman's suffrage is ever to come, now while we are in a new state, while our conditions have not settled down into social lines of polity—now is the time to give it to them, for it is inevitable, it will come, we cannot resist it, and now or never is the time to give our women suffrage.

Mr. Chairman, this is purely an intellectual fight on their part. They do not come here, they do not anywhere go to conventions, which have the right to give them their suffrage with an armed force, with any physical force, it is purely intellectual; they come before you relying entirely upon the generosity of men to give them their franchise, for they realize that it lies in their hands. If they had the power of the ballot, or had any other force to bring to bear upon us, we would not treat their demands with such flippancy. I say, Mr. Chairman, that the same intolerant spirit that opposes the advance of women in educational circles, now throws out its objection against her enfranchisement, but the progress of the world, the civilization of the age, has broken down all these barriers and woman has triumphed over them all in the scale of progress, she has mounted higher and higher, and shown that she

is as capable and fit as man to occupy the highest chairs in our educational colleges, until to-day they are all open to her wits and her abilities, and she grapples with questions of political economy with as much zeal and ability as man.

I claim another thing for women, and that is, that in nine households out of ten she is a better financier than the man. [Applause.] Women are naturally financiers. Whenever in a household it becomes necessary for the most rigid economy to be practiced, you will find woman's powers brought into its noblest sphere and with the most telling effect. I sincerely believe that if ever a national crisis with woman's suffrage, that their financiering will help us much better throughout than we have gone through the last few years. We have every reason to believe that whatever woman is in the home she will be in the state, and if there is any place on earth, in any department of the civil government, where economy needs to be practiced, it is in the administration of public affairs. And for that reason I think woman's suffrage will help the new State of Utah.

Mr. Chairman, I am in favor of the article as it was reported by the committee. I do not share in the fears that are expressed here as to endangering statehood. I cannot see how it can possibly come if men are sincere in Utah. I feel like the historic character who was urged to temporizing to a temporary expediency, and I believe that every delegate who has the conviction that I have upon this question, is just like that character:

He either fears his fate too much or his
deserts are small,
Who dare not put it to the test and
win or lose it all.

Mr. MAESER. Mr. Chairman, I did not intend to take the floor to take any part in any discussion outside of my own particular field, or anything that has a bearing directly or indirectly

upon it. But for the last two or three days since this Convention has been in session, I have been wondering whether we were in a mass meeting or in some caucus meeting, or in some convention of the democratic or republican party, or whether I was sitting in a lecture room listening to rhetoric or to instructions on oratory or elocution, instead of being in a constitutional convention where men have come together to deliberate calmly and wisely, and in a statesmanlike way and manner, for the drafting of a constitution for a new state.

I am not a politician. I have not been in politics for many years, as it has been my privilege to be disfranchised, and I was not willing to pick up merely the crumbs that fell from the masses, table, I keep aloof therefore from politics; even when the nomination was suggested to me for this Convention, I protested against it, and only by the earnest solicitation of my democratic friends, and a great many republican friends, I accepted the nomination and was elected by the votes of the democrats and a good many republicans too. This, therefore, is my first study in politics, and my first study in politics was for to get the key for my future course in politics in the new State—the key. Is it fear that was hinted at and plainly spoken and expressed that fills the hearts of some delegates here yet, that if women should receive the franchise—fear? Is that the keynote for the politics of the future State of Utah? Why, we stand on a platform higher than the democratic, higher than the republican platform. They both express themselves in favor of female suffrage. Why it is, perhaps, in the language of an Italian diplomat, that language was only a veil to cover the thoughts with, or does it mean what it says? I was asking myself that question and trying to find an answer for it here in this Convention. I don't intend to make a long speech, I think I will get through within

my five minutes; I hope so. But, gentlemen, at this, the threshold of our statehood here in Utah, with the eyes of the nation upon this Convention, let us not be politicians, let us try to be statesmen, and execute the highest workmanship of statesmanship, that is, the drafting of a Constitution for a free people.

Let us go on, and all our intrigues, let them all be put aside, and let these women of ours—these noble women, the mothers and wives and daughters and sisters of our people, have their rights. If by some trickery, (excuse the word, I do not know what better term I might use, perhaps there are a great many better than this, but that is the only word I can think of,) let us not spoil our work by trickery and procrastination from day to day. Gentlemen, I quote another European diplomat, who once said to some statesmen of Europe, "Gentlemen, that is worse than a crime, it is a mistake;" and that would be the mistake if we denied women the suffrage.

Mr. BOYER. Mr. Chairman, unfortunately my organization is somewhat different to other men, otherwise I would not rise to speak this afternoon; it has been stated here by a number of gentlemen upon this floor, that they have no political aspirations, they had no desire of notoriety. I admit that I am not so wholly unselfish. I desire that my name shall go upon the stenographer's record, and if necessary handed down upon the page of history for coming generations, if necessary to use in that record, that I, too, am an advocate of woman's suffrage. And right here I will say that if there is any one thing that gives me pleasure above another, it is to see so many people disappointed this afternoon. I think that so many of the fair sex that have come in our midst, have come here to listen to the eloquent oratory of some other gentleman than few the that have already occupied the time this afternoon. How-

ever, that may be, I desire to impose upon them one or two moments, and in so doing I trust that I am in harmony with the sentiment that has brought them here. That is the underlying sentiment of obtaining a full expression of the gentlemen that shall speak upon the subject. This question of woman's suffrage evidently has been in the minds of men many, many years; much thought has been given to it, and, as it has been remarked here by some of the speakers, great battles are oftentimes fought and won before going on to the battle ground, and I believe that this question is already fought and won, and that it is only a question of a little time until woman will receive her proper place and will be given the elective franchise to its fullest extent. Mr. Chairman, when I think in the history of the past of the innovations that have been made upon the iron hand of despots and look to the great degree of liberty that we enjoy to-day in this public land, and that you and I under God's benign influence are privileged to dwell here in this great Republic of ours, and then pick up this minority report and canvass the names and see that only—the chairman that brings in this minority report was, in the youthful vigor of manhood's life, a resident and a citizen of the stormtossed and downtrodden Erin's soil, and another from the land from which my father came, who might trace his ancestry back to the Puritan fathers that sought liberty in this land, and another coming from the cliffs and glens of liberty-loving Scotland, all at one time foreigners coming to this land, and for what? For that greater degree of liberty that is vouchsafed to man under the Stars and Stripes; that is a warning to all men of equal rights upon earth—when I see this I am surprised; and yet I thank my God that it is not a native son of America that has thus presented a minority report. [Applause.]

While I look upon those gentlemen

and uphold them as men of renown and as men of great worth in our community, I believe that there is clinging in their breasts that superstitious nature and bigotry that was also in the Puritan fathers, that came so many years ago and landed upon Plymouth Rock, and when they had seen and obtained so much of freedom in this land, they, too, became the persecutors of men, and would if they could, have chained conscience down and not given it the liberty that they claim to enjoy in this land; and I believe that this thing is only the relics of a superstition that is handed down, and that it will all wear away, and that we will be on that plane that makes of one and all one common blood in the interests of this our Republic. I trust that such may be the case, and when I read here one of the clauses in this minority report, I am somewhat surprised. I desire to read it: "As a people we are poor, we need the strong arm and the capital of the more thickly settled portions of our country. To adopt the report of the majority will be to keep both away until the unnecessary experiment shall have been tried." Mr. Chairman and gentlemen of the committee, is this the truth? I trust not. I want to call your attention to this fact, as a people we are poor; this we grant, but is it a crime to be poor? I would rather be poor than to be enshrined with the splendor of wealth, and have the confidence of my constituency, the conscientiousness of knowing that I had done my duty. I would rather have the privilege of going to my constituency and know that I had their support than to have the strong arm of wealth. I care more, gentlemen and Mr. Chairman—not that I am particularly a ladies' man, but I wish to say that I care more for the arms of the fair sex in this beautiful land of ours [laughter] than I do for the strong arms of wealth. [Laughter.] Hence, gentlemen, I am in favor of this prop-

osition of universal franchise of mankind.

I will not take up the time of this Convention any longer, but I will say this, when I yesterday and this afternoon looked upon the beautiful bouquets of flowers presented here and that were presented, too, in the advocacy of the opposition to this question—or I will say in favor of the substitute, I could not help thinking that it is well that the brows of those that are passing to the land that is unknown should be bedecked with flowers, and that this was certainly a fair warning of the obituary scene that will soon be seen in this Convention, and as an admonition to those who have signed this minority report—men for whom I have the highest regard—I wish to admonish them not to place themselves in a position that it became my privilege, with some of my particular friends, to witness in the early days of the excitement in Carson City—in the good old days of the six-mule team and the overland stage coach. Many of you here remember it. My friend, Mr. Kiesel, will excuse me, for it happened to be one of his countrymen; he had been to Carson; he had gone in there with some five or six thousand dollars of hard money. I will say he had been admonished by his friends not to go there, for the reason that it was thought that his power was not equal to cope with the sharpers of a mining camp. However, he was full of zeal, and he went there with a view of investing his hard earned money, and he did so and lost it all, and after losing his cash he became so disgusted with himself and with the surroundings in general that he started home. After traveling a day's journey out of Carson, being overtaken by an honest freighter, the driver of the six-mule team asked the gentleman, who had his blankets on his back and a cane over his shoulder, whether he wouldn't ride. The gentleman said, no sir; he didn't care to ride. It was insisted that he should

ride. No, sir; he would not ride. Finally it was extracted from him as to why he would not ride—what reason he had to give, he says, "Gentlemen, I goes to this town mit five thousand dollars and I put him all in the mining claim and I lost every damn cent. Now, before I ride, I will learn this damned Dutchman sumtings, and I will make him walk home every step of the way." [Laughter.]

Now, I hope and pray that my friends may not be in that forlorn path and walk and eventually kick themselves for the course they have taken, but let them come under the banner of the Republic and say, "Ladies, we extend to you our friendship, our good will and our feelings, and we know that you are equal to the occasion to vote and to vote honestly."

Mr. JAMES. Mr. Chairman, I suggest for the good of this Convention, and in the interests of this large assembly gathered here, that we suspend our remarks and permit the distinguished gentleman from Davis County to proceed with his argument.

Mr. KEARNS. I second that motion.

Mr. JAMES. It is evident that the people are assembled here for that express purpose. There is nothing that I can say to you or to them that would keep them here five minutes and I doubt if there is anybody else in this assemblage that can do it. I don't speak disparagingly of any gentleman, but I do speak encouragingly of that distinguished man, and I hope, gentlemen, you will let him go on. We can not legislate, we can not do any good, with all this vast congregation here. Let him finish his speech and let us to-morrow, when the people don't want to hear us, go on and settle this question. I ask the unanimous consent.

Mr. ROBERTS. I object for the present.

Mr. JAMES. Oh, Mr. Roberts, do not interfere with our work.

Mr. BOYER. Mr. Chairman, I desire

to submit this, that Mr. James and I now have had our talk, and of course we can conscientiously and freely submit to the gentleman from Davis; however, there are others here that perhaps would like to talk, and as the rules have already been suspended I would object.

Mr. ROBERTS. Mr. Chairman, my only objection is, that the arrangement proposed by the gentleman from Salt Lake would not leave me to close the debate, and that I must insist on doing so.

Mr. JAMES. I will say to the gentleman that this debate will not close for days.

Mr. ROBERTS. Well, then, I wish to wait for days, until it does close.

Mr. JAMES. Very well, sir.

Mr. IVINS. Mr. Chairman, inasmuch as this whole proceeding is a little out of the way, I would like to move again that it be the sense of this committee that Mr. Roberts now close the debate on this question.

The CHAIRMAN. It can only be by unanimous consent.

Mr. SMITH. Mr. Chairman and gentlemen of the committee, I had fully designed myself not to speak upon this question which has detained us so long, but in order that I may not be misunderstood as to my position upon the same, I feel that it is but just to myself and to my friends that I should declare myself, not with the idea in any sense of trying to sway or change the views of any gentleman upon this floor. There have been during the discussions that have been held upon this question, some recriminations back and forth, and some questions as to who were possibly the movers in this matter, looking to this question of suffrage. It is highly probable that I myself am as fully conversant with it as any other gentleman upon this floor, and will say that so far as the party of which I am a member is concerned (and you will pardon me for making reference to my party, because I regard this as emi-

nently out of place in consideration of this question), it was the result of the deliberate counselling together of men of all shades of views, members of that party. I was not myself a delegate to what is known as the Provo convention, but I have been an active participant in the discussions that have occurred upon these political questions throughout this Territory, and I regard myself as fully and as thoroughly committed to the question of equal suffrage as it is possible for man to commit himself. The discussions that have been held thus far in this room, by the various gentlemen upon this floor, have in no way changed or altered my views; there was a time in the Territorial Legislature of Utah, when I fought the question of equal suffrage because my convictions were that it was improper at that time. I honor the courage and fortitude of my friend from Davis County; I respect his judgment. I respect his observations of the rule of his conscience, because I know that he stands upon this position in honesty, and that did he not honestly believe the views he has uttered, no more than any other gentleman would he have spoken upon this floor. And while I might differ with him in regard to these views and their announcement, I do not in any sense desire, nor would I in any sense utter one word to reflect upon him as a man and as a gentleman, and I regret the evidence of intolerance that came from some members upon this floor in calling him to account for an honest expression of his judgment and sentiment. [Applause.]

This question of suffrage to my mind is the question of questions among the American people. It lies at the foundation of all liberty, it is the structure upon which the American people have been building step by step, degree by degree, the uplifting of the race, the upbuilding and blessings of the children of one common parent who have found a home upon this broad soil. There is

no argument that man can produce, no word that he can utter, that would in any sense discredit woman in the exercise of the franchise, that it does not apply in the same sense to every man. You may discuss, you may argue, you may reason upon the inequalities of the conditions, you may laud the virtues of woman, you may point to her with pride, and rejoice in her peculiar characteristics, say that you do not want to lower her to that condition in which man has fallen. These things are simply nonsense; she eats, she drinks, she sleeps, she moves just as man moves. Her aspirations and ambitions are as man's are. No man has ever made a mark among the human race or exercised power and dominion among his fellowmen, but that, standing at his head and implanting within his breast, a love of liberty and respect for right and regard for government or the uplifting of any court or proper principle, has been a noble woman who taught him every lesson that enabled him to perform his part no matter where it may have been upon the field of battle, as a soldier, or in the forum in the discussions of those public questions and in the consideration of the interests and well-being of his and her kind. We may consider these and look with fear and doubt upon each other in regard to the basis upon which we stand. We may feel our fears and our doubts in regard to this matter, but where is the woman that ever betrayed her trust half so many times in this life as has her brother broken faith and betrayed his trusts. In the midst of distress, they have ever been true, in the midst of trial they have ever been true, upon the field of battle following the wake of armies that have gone forth to accomplish victories in the interests of the upbuilding of our government, and in the maintenance of that government, they have been found nursing the sick and wounded. They

have said to their sons, "The liberties of the people are at stake, go, my heart goes with you, and all that is possible for me to do I will do for your interests and for your well-being. I brought you into the world, but I give you to your country, and will stand by you in the midst of your distress."

The same has been true in their husbands; the same has been true in their brothers; the same has been true in their utterance to lovers; ever ready to make a sacrifice to perform their part in honor before their fellow beings, and with justice and propriety to themselves.

It seems to me that the range of discussion that this question has taken is entirely improper and wrong. We stand here as citizens, we stand here upon the basis of right, we stand here as the lovers of wives, as the lovers of mothers, as the lovers of sons, as the lovers of daughters. We are not here to place laurels on the brow of the son to displace one from the brow of the daughter. We are not here in any sense to rob either of them of any right or any privilege, but we are here considering the conditions that have existed in the world. As has been explained, in the history of the past woman has been the beast of burden to a very great extent among our brothers, but I do thank Providence that in the uplifting and establishment of the government of which we propose forming a part, that the spirit has changed. An eloquent lecturer upon a certain occasion said, "You note the advancement that is made in this, for entering a dining room of a hotel in England, you see the husband leading the way and his wife following; entering a dining room of a hotel in France, and you see the husband and the wife side by side entering the dining room holding pleasant converse; but entering the dining room of an American hotel you notice that the woman comes in at the

head of the column swinging her skirts and her husband comes straggling after."

Yes, it is true, and it is miserably true; and they have been worthy of the confidence that has been placed in them. They have been found in every place of honor true to the trust reposed in them, and in this proposition we are but taking a step in the direction of universal progress, looking to the placing of man and woman in the positions of honor side by side, guided by every hope and aspiration, looking to the accomplishment of every given purpose, and seeking to enhance the interests and well being of their sons, of their daughters, of their brothers, of their sisters, and to-day standing upon this floor I take the ground I do on the question of equal suffrage, believing that it is a right that is theirs, as it is a right that is mine. Not because, forsooth, I hold the views of any special body of men, but I believe the handwriting upon the wall, the forefinger of destiny, the purpose of God himself, as well as the purpose of the American people, is that they, with their brothers, shall have and enjoy every right that humanity can enjoy and that it shall not be taken from them, and that my vote shall not be cast to retard their advancement or interfere with their progress in the accomplishment of this great step, that by them and with them we may accomplish our mission in the world, and indeed have liberty among the human race.

One of the gentlemen in speaking, spoke glowingly of the services of that gifted man, Thomas Jefferson. We are informed that the Declaration of Independence for which he received so much credit, was the work of a woman; we have seen the heroic efforts of the ladies of various parts of the world, we know their worth in these directions, there is no need of our discussing that they have faults; they have their faults. Have not men? But they sometimes quarrel. Don't men? But they sometimes are

selfish; are not men? But are not they more generous than men? Are they not willing and always willing to make the sacrifice as a rule that men are not willing to make? Is there a thing that can be applied to women in these various directions, that men are not guilty of to a greater degree in every sense? And have they and do not they, and will not they, as we go on in the accomplishment of the history of our race, display greater heroism, greater devotion, greater truth, greater worth, greater purity, greater consistency, and greater honor in every walk of life, where they may be brought in competition with man? It is but just and right that the opportunity should be theirs, and so far as I am concerned, I go upon the register as one in favor, as I believe in my conscience it is right, or if I did not believe it was right, I would stand side by side with my friend upon this proposition and combat it to the last inch. But it is right, it is just, and I say to you, you may discuss it, argue it till doomsday, and the same proposition that would deny to woman the right of franchise, applied would deny the same right to man. [Applause.]

Mr. LOW (Cache). Mr. Chairman, I have a request to make of the house by unanimous consent. While I have no desire to cut off the debate, I think that a definite conclusion can be arrived at that will be an advantage to Mr. Roberts, by way of concluding this question, provided we agree to it. It is that if the sense of the Convention can be obtained, so that we can ascertain before the time for closing this afternoon's session, whether the debate can be closed for the field, that some provision should be made that the honorable gentleman from Davis County could be heard this evening, and that a committee could be appointed to make such arrangements that the information could be given before the close of this afternoon's session. Whether this would meet the approval of the gentlemen present in the committee or not—I

merely present it for their consideration; and if there is a possibility that the field shall finish their arguments, since he is pitted against the field, allowing the closing of the debate to-night, and ample provisions could be made for his hearers, for he seems to be the attracting card in this matter.

Mr. KIESEL. Mr. Chairman, I would move that when we adjourn we adjourn until tomorrow morning, and at that time Mr. Roberts shall be allowed to close the debate.

Mr. EVANS (Weber). Mr. Chairman, Mr. Roberts has just informed me, that he would just as soon conclude this evening, provided we could have an evening session; it would save a good deal of time, and, therefore, I will oppose the motion made by the gentleman from Weber.

Mr. RICHARDS. Mr. Chairman, I have a suggestion to make; it seems to me that if the gentlemen who desire to speak on this question, would now signify to the chair how many of them desire the floor, we might be able to arrive at some conclusion as to the probable continuance of this discussion.

Mr. LOW (Cache). And about what time they would occupy.

Mr. ELDREDGE. Mr. Chairman, I arise to a point of order. I suggest the motion of the gentleman from Weber County is out of order, that it is not within the purview of this committee to adjourn.

Mr. CHAIRMAN. That is technically correct.

Mr. LOW (Cache). Mr. Chairman, I offer my suggestion so that if there be no objection to it it might go into effect.

Mr. THURMAN. I object.

Mr. C. P. LARSEN. Mr. Chairman, surrounded here as I am by the beauty and grace of our capital, it may be somewhat difficult for me to express my feelings, but I would not feel justified in not saying a few words on this question. As this seems to be a testimony meeting, I desire to just bear my

testimony as well. There have been some things said that perhaps had better never been said. There is apprehension that if we give the women the franchise that conditions will be brought about that none of us will like. I am in favor, sir, gentlemen, of the enfranchisement of the women, and I do not see, as some of the gentlemen have expressed themselves here, that this question has not been talked about, some of them saying that it is just now that we are beginning to think how serious a matter it is. It does not certainly, sir, speak much for the intelligence of these delegates that are here present. Is this the first time we have thought we would have to meet this question? I hardly think so. I hardly think that there is one delegate here present but what has given this some thought, but it seems to me that they have made it convenient during the campaign to say at least nothing against it if they could not say anything in favor of it. It has been told here that these pledges are nothing, that they are not sacred. I look upon it in a different light altogether. It has been said that the republicans by putting in the platform this plank, were making a bid for a certain class of voters of this Territory. I deny it. I say it is not so. I was not there at that convention, but I say it is not a fact. It has been practically acknowledged as a fact by a number of my own party. I say it is not so.

I think that we have given this question many serious thoughts. How would you feel, you that belong to a party, that has ever said that we will meet a question fair and square, we don't believe in dodging and straddling and sidetracking, but we will meet an issue fair and square—how would you feel to go before the public this fall? Do not deceive yourselves, do not think for a moment that you can deceive the people. You are only deceiving yourselves, and of all deceptions that is the worst. We were elected on this plat-

form, democrats and republicans, with that plank in both platforms.

Now, as to the apprehension, which is there among the people of Utah that want the old conditions brought back? I don't think there is anyone. I have known no sect since we divided on party lines, and I wish to God that that condition had been brought about twenty years ago. And let me tell you right here, gentlemen, I do not know your complexion religiously in this body, I do not care to know; that makes no difference to me, but I can tell you that whether you give the women the franchise or not, the issue of this State and this nation will be fought out between the two great parties, and they are both necessary and they will work it out on these lines. There is room for us all, there is room for millions in this coming State, and we must be and will be an homogeneous people and live in peace and quiet together. Whether you give the women the franchise or not, there is no need of any apprehension or any fear.

Gentlemen, let us not deceive ourselves, let us do what we have said we would do; I am conscientious in this matter. I believe that side—I believe that politics will gain through the women having a voice in political matters as they now have in social matters. I believe in the great principles enunciated in the Declaration of Independence by those men whom we are inclined to look upon more to-day like gods among men than men. I am in favor of the clause as introduced by the committee.

Mr. HART. Mr. Chairman, as it has been made known that it is not the wish of this committee that there should be no more discussion, I do not rise to make a speech, but I think it is only justice to myself to take the time to state that I wish to vote in favor of the first clause as reported by the committee and against all the substitutes.

Cache County is in favor of equal suf-

frage for women, and I think her delegation—I believe that I may speak for them, when I say that every one of them will vote in favor of equal suffrage for women, not only for the pleasure in so doing of casting my vote in line of redeeming a party pledge and party platform, that at least is binding upon me, and I have at the same time the pleasure of voting for a doctrine that I have for many years dearly cherished. [Applause.]

Mr. ANDERSON. Mr. Chairman and gentlemen of the committee, I am opposed to the substitute of submitting woman's suffrage as a separate article to the people for many reasons, the chief of which is, because I am unwilling to give the saloon men, liquor dealers, gamblers, and the bad element of society, who are afraid of a good vote, an opportunity of defeating it by corrupt influences and the fraudulent use of money, and if it is so submitted no one can deny that such influence will be used. I have listened earnestly and attentively throughout the entire discussion of this question, but I do not think there has been one logical argument made against woman's suffrage that it would not as consistently apply to men. The gentleman from Davis has laid great stress on what he styled a decree of the Almighty which has been handed down from the mythical and barbarous realms of the past at a time when all forms of oppression were justified by law, and of course such decree was interpreted in accordance with the uncivilized ideas of that age; but truth and justice would make the decree of the Almighty to read, "Woman, thou art man's equal and companion, together thou shalt travel the journey of life, and enjoy equally with him all rights and privileges."

I believe and shall support woman's suffrage for many reasons, the chief of which is because I think it is right and just and necessary for the protection and perpetuation of the principles of a

free government, and also because I am pledged to do so by the platform of my party and by solemn promises made to my constituents, and I would be a traitor indeed if I would break my faith with my constituents and my own convictions. During my whole life I have endeavored to follow the star of duty and sincerely trust that its light may ever continue to guide my actions.

Would it be any argument against men exercising the right of franchise, to bring up examples of their incompetency and wickedness? If so, a dark and gruesome record could easily be established that would forever bar them from exercising such right. If some women do not want the right of franchise it is no reason that it should be denied to those who desire it. If mankind had always remained in the grooves of the past and had made no changes, we would still be barbarians, with our minds enslaved by bigotry and superstition; therefore, the road to progress and advancement lies in the direction of changes and innovations and in breaking loose from old forms and customs, and it has been upon that road that all the great principles of truth and liberty have been discovered.

We are certainly all pledged to support woman's suffrage, and no member can absolve himself therefrom by saying even publicly that he disapproved the same. It would have been his duty if he could not support it, to have resigned before election, and if he did not do so, and now opposes it, he places himself in a false position before the people, and future history will so record it. I am surprised to hear some of my republican colleagues get upon this floor and say that we are not bound by the principles and platform of our party, intimating that the republican party is a party of broken promises and pledges, which I deny. It would be just as consistent to repudiate any or all principles of our platform. We do not come here to express our own individual views, if they

are opposed to the majority of our constituents as expressed by platforms on which we are all elected. What confidence would the people have in political speakers if such dishonesty was practised in politics. They would say, your principles are beautiful, but they are only made to catch votes, and members of your party may repudiate them at any time when at variance with their individual ideas. I have always considered the republican party to be a party of honor, a party true to its promises and pledges, and I think it is so considered by its supporters. But if it should break this pledge, after holding it out to the hopes of the people, then good-bye to the republican party in Utah; for the people would have no more confidence in any of its promises. There is nothing that would so demoralize the party and bring it into disrepute with the people. Therefore, our sacred honor and future success are at stake, which we cannot afford to sacrifice.

The gentlemen comprising the opposition offer the following reasons why woman should not be granted the right of franchise, viz:

First.—Because woman is better than man.

Second.—Man has too much respect for woman.

Third.—Good women will not vote if given the opportunity.

Fourth.—It is not expedient because it will endanger the ratification of the Constitution.

Let us examine these reasons.

First.—Women are better than men. The same line of reasoning would disfranchise all honest men and give the franchise to the villain and drunkard.

Second.—Man has too much respect for woman. It is claimed by woman that man cannot respect her when he looks upon her with so much distrust and suspicion that he cannot accord her the right of franchise, and it is also claimed that the truest can only exist where there is perfect equality. The op-

position admit that woman is morally superior and mentally equal to man, and yet they are unwilling to allow her equal rights. It was this same spirit of intolerance that caused such a withering blight upon the progress and liberty of the people during that period known as the "Dark Ages." The opposition misrepresented the question by conjuring up improbable conditions and scenes for the very purpose of working upon our sentiments and sympathies.

Third.—Good women will not vote if given the opportunity, which has been proved false repeatedly in Wyoming, Kansas and Colorado, where women have cast their votes repeatedly in the direction of reforms.

Fourth.—It is not expedient because it will endanger the ratification of the Constitution. Now, I can say for myself, that I would rather Utah remain in territorial bondage throughout the endless cycles of time than to have her admitted disfranchising one-half the citizens of the new State, and I think I voice the sentiments of thousands throughout the Territory.

All eyes are now upon Utah. Let us get out of the ruts of bigotry, intolerance and injustice, and ascend to the broad, bright plane of liberty and equal rights, and our star of destiny will rise and shed its brilliant lustre on all mankind.

Mr. HAMMOND. Mr. Chairman, I was afraid this thing was going to close up before I had an opportunity of expressing a few of my feelings. I am getting tired of it, and I presume most of the people are who are spectators here. They are anxious to hear this tall cedar from Davis County, and I do want to hear him myself. I was a member of the committee on suffrage that presented this majority report; there was a good deal said about the rushing of this matter, and that the minority could not get heard or get their report ready. I want to state that this was one of the first matters

that was entered into the first day of the meeting of the committee. I was not there, I had not arrived, but when I met with the committee the next morning, they told me what they had done; says I, "Gentlemen, I am with you to give the girls suffrage—female suffrage." That is what it is called here, I believe, and says I, "I go you one better, and let the girls vote when over eighteen years of age." Says I, "That is where I stand on that matter, for I believe they are just that much smarter than our dead-head boys that are holding up the corners of the saloons around here." Some years ago, I don't remember how many, while I was in the east, a mass meeting was called in Ogden. I was then a resident of Ogden, and I was told that my wife made one of the grandest speeches made there in favor of woman's suffrage. I was in favor of it before that time, I could not tell when I had not been in favor of equal rights to all the citizens of these United States, and for all in the world for that matter. Now, I represent, I am happy to state, the southeastern county of this Territory, bordering on New Mexico, Colorado, and Arizona. We are right down there in those four corners; there is not another spot like it on the map that I know of. Now, sir, I am happy to state as the young gentleman did the other day, they were a unit in their representation—I am a unit and have no differences to quarrel about it, with the delegates from that county, I am heartily in favor of equal suffrage to the women as well as the men; that is the sentiment of the women down there. They did not give me any particular instructions, for I know their sentiments, and as fine a class of women as I ever knew upon the earth, good housewives, good mothers, and attending to their duties as becomes them in the midst of the troubles and difficulties that we have there; they have stood shoulder to shoulder and side by

side with their husbands in every difficulty. I was told by a very eminent lady a few years ago, before I moved from Weber County, journeying up Ogden canyon in my buggy, and her by my side, says she, "Bishop, women led in the downfall of man—the degeneration—and it is their high destiny in the regeneration of man, that they should lead." Now, I appreciate that sentiment and it has sounded in my ears and my whole heart from that day to this. I believe in it. Talk about women—they are capable of anything. [Laughter.]

Now, I have said about my say, I have listened to speeches until my old head ached and cracked with them, hearing Cicero, Cæsar, Demosthenes, and the Websters and Clays, until I was fairly bursting wide open with them, and I would go to sleep and forget the whole business.

Mr. HEYBOURNE. Mr. Chairman, I am of the opinion very strongly, sir, that if this debate is continued much longer, provided we get a favorable vote on the woman's suffrage question, that there will be quite a number of the ladies that will not be able to exercise it, in their interests; I do now move you sir, that the committee rise and report.

Motion seconded.

Cries of no.

Mr. ALLEN. The gentleman that spoke just before me said that he was getting tired of this debate. I was getting tired of it two or three days ago, but I am getting used to it. I expect that in several years from now, when the young ladies come to examine the record of this Convention, they will find some men there recorded in favor of woman's suffrage, as many gentlemen upon this floor have made speeches for the purpose of pleasing the ladies. It is not necessary as far as I am concerned, because I will expect to live until that day when seven women will hang on to one man.

Mr. BOWDLE. Mr. Chairman, I have

not occupied my own time nor sold it. I move you that it be the sense of this Convention, that this debate close at 5:30 this evening.

Mr. HART. Mr. Chairman, the motion is out of order. I believe it is already the sense of this house that the debate close within a reasonable time, but I am opposed to the motion. There may be gentlemen who wish to talk. The motion is certainly out of order.

Mr. BOWDLE. The motion is certainly in order. If you will turn to page 94 of Roberts' rules—

The CHAIRMAN. That matter has been forestalled. The Convention has already agreed to give Mr. Roberts all the time he wants to close this debate.

Mr. EICHNOR. Mr. Chairman, I arise to a point of order.

Mr. HEYBOURNE. I made a motion that we rise and report progress. The motion was duly seconded and that motion is also in order under our rules.

The question being taken on the motion of Mr. Heybourne, it was rejected.

Mr. CRANE. Mr. Chairman, I desire to say a few words on this important question. It cannot be said that I have been extremely garrulous on the floor of this Convention, nor have I squandered much of the time. But, sir, on this question I desire to occupy five minutes of your time to express the sense of the people who honored me by sending me as their delegate. I have been highly edified the last three days by the eloquence of the gentlemen who have preceded me—eloquence worthy of Demosthenes and Cicero. I think I have never listened to such orations as have fallen from the lips of at least two of the gentlemen from Salt Lake and one from Davis, nor do I know, Mr. Chairman, that I can give any further enlightenment upon this subject, although I do not propose to thrash old straw any more than I can help. There are phases in this discussion that I think have not been fully touched upon. This is a very grave question, Mr. Chair-

man, grave not only to the people in Utah to-day, but to those who wish to come after them. It is a question that has been agitated in this Territory for at least six or seven months, agitated by both political parties during one of the most bitter campaigns that perhaps was ever fought in any state or territory in the Union, and yet there are gentlemen on this floor who have intimated that they did not know that woman's suffrage was in the platform. Mr. Chairman, I am not here to express my individual sentiments as to my individual opinion. Public office is a public trust, I have heard. I am here simply to express the opinions of the people whom I represent in southern Utah. Since this Convention has met I have received letters from almost every person in my county, urging me as best they knew how, to vote for and support this plank in the republican platform, to which party I belong. But, sir, when I express my own individual desires and opinions, and they coincide with the opinions of those who have sent me here, a double pleasure has been given me. I received a note this morning, Mr. Chairman, from one of my friends in this city, I presume. He urged me not to speak upon this question, as like yourself I would be digging my political grave. Several gentlemen on this floor have intimated the same thing. They said they had no political aspirations. They said that they had no political stars in the horizon; whether I have or not, Mr. Chairman, that is not my province to speak of to-day, that is something which the people of Utah have in their power to say; but I want to say here and I want it fully understood, that if to express my honest sentiments or hopes and desires of the people of Millard County, which I in part have the honor to represent; if so doing, I dig my political grave, then let it be dug deep. If I should sink below the wave of the bubbling waters unhonored, unwept and

unsung, I want to say, Mr. Chairman, that there is only one desire that I have and that is that you yourself should write my obituary. I want to draw the attention of every gentleman on this floor whose memory in some way seems to be extremely deficient, to the platforms upon which they stood and upon which they stand to-day. I do not wish to discuss the political aspects of the day, that is not what I am here for. I am not here as a partisan, none of us are here as partisans, but for a greater, grander and nobler purpose, to lay the foundation of the future laws of the State, a Constitution that in the language of yourself, Mr. Chairman, shall go tumbling down the ages in the last syllable of recorded time.

I want to draw the attention of the gentlemen to a platform that was created on the 15th day of September, 1894, I want to read it. There are gentlemen who differ, Mr. Chairman, and I honor them for it, if they have seen a new light; if they have received a revelation, I have nothing to say, but speaking for the great masses of the people of this Territory, I believe they have not yet received that revelation nor have they like Saul of Tarsus yet seen that great light. Forty thousand people on the 6th of last November voted for woman's suffrage in all its meanings, in all its ramifications, whatever they may be. Twenty-one thousand people in this Territory voted for this plank in this platform, "We favor the granting of equal suffrage to women." But, sir, below that plank in this platform, and this plank I learn was written by one of the distinguished gentlemen who has occupied a responsible position in this Territory for many years, "We demand for the new State of Utah a liberal Constitution." Mr. Chairman, there are gentlemen on this floor who differ with me in the meaning of this plank, perhaps, and I do not wish to be understood as doubting their honesty nor their integrity; but, sir, there is not a

republican on this floor, I hope, who did not read that platform upon which he stood before he accepted the nomination from his constituents. Consequently there was another political convention held by a political party, that was then the dominant political party in this Territory; they intimated that the republican platform was a platform to get in on and not to stand upon, but just as soon as they were in they could look out of the windows at the poor dupes who sent them there, and they went the republican platform one better, "The democrats of Utah are unequivocally in favor of woman's suffrage and the political rights and privileges equal with those of man, including the eligibility to office, and we demand that such guaranty shall be provided in the Constitution of the State of Utah as will secure to the women of Utah these inestimable rights." There are republicans and there are democrats on this floor who will not stand by these planks in these platforms, and it is not my purpose, nor do I so desire, Mr. Chairman, to criticise their changed opinions; but, sir, when those two planks were written and presented to the people of this Territory, whose honesty and whose integrity, whose loyalty and whose patriotism not a single man on the floor of this Convention dare doubt for one moment—40,000 votes were given on the promise of the platforms and these pledges made to them in these two conventions. I believe, Mr. Chairman, in being honest in every walk of life as well as in political promises made at political conventions, and I want to say to my political friends here, of both political parties, that the people of this Territory will strike from place and power that political party or parties that have been holding the cup of promise to their lips and drugging it to their hearts.

Mr. Chairman, speaking for the people of my county, I say that every man and every woman so far as I know are

in favor of equal suffrage of the sexes. They demand it. They have asked me to advocate it, and I am their servant. Already five hundred women in my county away down in southern Utah are watching and waiting the electrical flash that will herald to them the glad tidings of their emancipation.

Mr. CHRISTIANSEN. I desire to occupy a few minutes of the time of this Convention. I have already expressed myself regarding suffrage of women, being a member of the committee upon suffrage, and elections and having signed my name with the majority of that committee in favor of woman's suffrage. I do not rise to occupy any length of time in this matter, as I realize that there has been so much said, and as has been stated, it is useless to thrash the straw over the second time. But as my signature appears on the report of the majority of that committee, I still feel the same. All this discussion against woman's suffrage has not changed my view in the least degree, and I stand here upon this floor ready at any time to cast my vote in that direction, to give to every person, both male and female, equal suffrage under the waving flag of this great Republic.

Mr. PARTRIDGE. I wish to bear my testimony. [Laughter.] While I occupy the floor, I would ask that the gentlemen and ladies present would refrain from any applause, and I will promise them that I will not be lengthy. The main object that I have in standing up here on this floor at the present time, is that I may register my protest against the proceedings that we have been engaged in for the last few days. At the commencement of this debate the gentleman who precipitated it upon us, gave us the assurance, or at least made the statement that he knew that it would have no effect, that it was a foregone conclusion that the section giving suffrage to women would be incorporated in the Constitution. Since that time I have been ready at any time and all the

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who supported me on election day, that requested me to introduce an amendment of this kind, so that the people can have an opportunity to vote upon it. Now, gentlemen, if I am wrong, and I hope I am, I will say this, if you imperil that Constitution either here or in Washington, my hands are clear. If this measure is in accord with the laws of Almighty God no power on earth can defeat it. If it is contrary to the mandates of the Divine Master, by sheer force you may build it mountain high yet of its own weight it will crumble into fragments and to dust. You may appeal to party platforms, I appeal to patriotism on this question. All we ask is, submit it separately; you must be fearfully afraid of the people. If the people want it they will vote for it; and I will say right here, if this is submitted as a separate plank I shall support it and vote for it, the same as if it is in the Constitution. But give the people a chance who earnestly ask that this matter be submitted to a separate vote. If you have lost faith in the people, you are afraid of their votes.

Mr. THURMAN. Who is asking to have it submitted to a separate vote?

Mr. EICHNOR. Mr. Chairman, if you will believe me, if I speak to you, that if one man has spoken to me in this city, more than 500 have requested me to vote in this way.

Mr. THURMAN. Why don't they put themselves on record here in a petition and remonstrance? We have heard enough of these rumors—undercurrent of feelings. Let's have some commit themselves. I would not represent an undercurrent of feelings.

Mr. EICHNOR. Mr. Chairman, if you desire, I guess they can place themselves on record.

Mr. KIESEL. For the information of Mr. Thurman, I think this little dispatch may be in order.

Mr. EICHNOR. I will give way to Mr. Kiesel for a few moments.

Mr. KIESEL. I will just simply read

the dispatch. I think there is a sentiment awakening here. The people all over the country are waking up, and they telegraph to the delegates of Weber County: "Mass meeting here to-morrow night to consider woman suffrage. Have action delayed until after this meeting if possible." Now, if you will give the people time, you will hear from them. In two or three days you will hear from them all over the country.

The CHAIRMAN. Who is that signed by?

Mr. KIESEL. R. H. Whipple, chairman republican committee, H. H. Henderson, chairman democratic committee; it is dated to-day. Now, if you give them time you will hear from the people on this question.

Mr. BOYER. May I ask the gentleman a question?

Mr. EICHNOR. Yes, sir.

Mr. BOYER. Should the substitute, being submitted to the people to be voted upon as a separate article, be carried, will it or will it not become a part and portion of the Constitution?

Mr. EICHNOR. Yes, sir; if a majority vote in favor of that separate article it will be a part of the Constitution.

Mr. BOYER. Then another question. Will or will it not equally imperil the Constitution if it becomes a part of it?

Mr. EICHNOR. I answer no, and I will say to the democratic side of the house that the fire in the rear with respect to statehood is not coming from the republican side of the house. I think it has a proper place in our schedule as a separate article, and then when the majority of the people say yes, let it be a part and parcel of this Constitution. It won't do, gentlemen, to say that only the gamblers and saloon men and the bad element of society are opposed to this proposition. I will state that I am not opposed to it, but I speak in behalf of the people that are opposed to it, and that follow legitimate business, that demand

that they have the right to express their views on it.

I believe that it is the patriotic duty to place this in a separate article that the people can express their views upon it, and not crack the party lash and look upon a party mandate as a divine institution. I think we owe a higher duty to the people than party planks, and that is patriotism. The matter has been stated here that the Constitution of the United States is an inspired document. I hope it is. If God inspired the men that wrote that Constitution, they did not give equal rights to the women, but left it to the people of the United States. Now, Mr. Chairman, I have no quarrel with any man that desires to place this right in the body of the Constitution. I make this amendment in the interest of peace and harmony, because on Saturday afternoon there was a feeling rampant in this Convention that every person should have his way. I believe that this would remove the question and there could be no jar among the delegates. As for one I do not care who framed the plank in the republican platform. I will state that if the gentleman framed it whose name has been mentioned—that as for one I never signed a petition to disfranchise the Mormon people of this Territory.

Mr. BUTTON. Mr. Chairman, I move that the committee now rise.

The motion was rejected.

Mr. ROBERTS. Mr. Chairman, we have been discussing for some time a very important question, and I presume from the fact that no one else has requested the floor, the gentlemen of the Convention have now said all they wish to say; it has come now my turn, and that what remarks I have to make will close the discussion. I call attention to the fact, however, that this great course of people have been assembled for some length of time, and their position is very uncomfortable and I think it is alike unjust to them and to myself

also, and to the great question that is before us, to insist on me going into a discussion of it, which I am sure I could not close before both the delegates and those who are here as spectators would become exceedingly weary; there would be a constant confusion, and therefore, in justice to myself and the cause in which I am to speak, I ask the delegates that the committee might rise, or take a recess until to-morrow and then I have the privilege of closing this discussion. It would be, sir, eminently unfair to ask me at this stage of the proceedings to enter upon my discussion upon the issue.

Mr. CRANE. I make a motion that we rise and report.

Mr. VARIAN. I hope that this committee will recognize the fact as suggested by my friend from Davis County, that it is, perhaps, absolutely necessary to enable him to respond to the acknowledged wish of the committee, that it do rise. Let us not interpose any further objection to the matter. I move that the committee do now rise.

The motion was agreed to.

The committee then rose and reported as follows:

The committee of the whole has had under consideration the article on election and rights of suffrage and report progress.

Mr. CANNON. Mr. President, I desire to move that we adjourn until some hour to be fixed this evening and secure a convenient place in which to assemble. If it will be agreeable to the gentleman from Davis County to speak to-night, I think it would be a great saving to the Convention. We are under an expense of \$300 for a half day, and if a half day should be consumed, which I doubt not will be the case, it would be that much more saved if we could meet to-night, unless the gentleman is weary from being here; unless he objects, I move that a committee be appointed to look into the procurement of the Salt Lake Theatre for this evening.

Mr. EICHNOR. Mr. President, I hope that motion will not prevail.

Mr. VARIAN. I rise to a point of order, Mr. President. This Convention is not on wheels and it is not necessary to make a grand display like that.

Mr. GOODWIN. Mr. President, there are several committee meetings set down for to-night and I know this Convention is tired. I hope the request of Mr. Roberts that we adjourn until to-morrow morning will be treated with respect.

The Convention then, at 4:40 p. m., adjourned.

THIRTIETH DAY.

TUESDAY, April 2, 1895.

The Convention met at 10 o'clock a. m. President Smith in the chair.

Roll call showed a quorum present.

Prayer was offered by Apostle F. M. Lyman, of the Church of Jesus Christ of Latter-day Saints.

The journal of the twenty-ninth day's session was read and approved.

A petition, signed by G. F. Hickman and forty-eight others, (file No. 171), was presented, requesting that the question of prohibition be submitted, as a separate article, to a vote of the people.

Referred to the committee on schedule, future amendments and miscellaneous.

Mr. Eldredge presented, by request, a petition from Mary A. Freeze and twelve others, asking that the Convention adjourn to the Theatre. Also a petition asking that the Convention change its place of holding sessions.

Mr. VARIAN. Mr. President, I move these petitions lie upon the table.

The motion was agreed to.

The committee on water rights, irrigation, and agriculture, presented a report, which was referred to the committee on printing.

Mr. CHIDESTER. Mr. President, I

move we now resolve ourselves into committee of the whole for the further consideration of the article on elections and right of suffrage.

Mr. RICKS. Mr. President, I move as an amendment to that that we remain in session until article 1 is disposed of.

Mr. CHIDESTER. I accept that amendment.

Mr. CRANE. Before that motion is put, Mr. President, I have a resolution I would like to present:

Resolved, that for the purpose of accommodating the public to hear the closing debate on woman's suffrage, that it is the sense of the Convention that we adjourn to the Salt Lake Theatre until after Mr. Roberts has concluded his remarks.

Mr. CRANE. I think perhaps that this resolution may be out of order, but I am informed that there are a thousand people waiting in the hallways and down to the ground to hear the eloquent speech of Mr. Roberts.

Mr. VARIAN. Mr. President, I arise to a point of order.

Mr. CRANE. I know the Convention is not on wheels, Mr. President.

Mr. VARIAN. I arise to a point of order.

Mr. CRANE. And I want everyone to hear these remarks—

Mr. VARIAN. The gentleman ought to sit down when I arise to a point of order. Such a resolution as that is out of order. It would violate the standing rules of this Convention, for one thing.

The PRESIDENT. We cannot adjourn to any place unless—

Mr. CRANE. Then, Mr. President, I would move that the rules be suspended and that we adopt this resolution.

Seconded.

Mr. VARIAN. Mr. President, I move to lay the resolution on the table.

The motion was agreed to.

The Convention then resolved itself into committee of the whole with Mr. Ivins in the chair.

COMMITTEE OF THE WHOLE.

The CHAIRMAN. The question, gentlemen, before you is the substitute offered by Mr. Eichnor, of Salt Lake City, to section 1 of the report of the committee on elections and rights of suffrage.

Mr. WHITNEY. Mr. Chairman, I arise to a question of personal privilege. I was not present in this room yesterday afternoon, when it was arranged that the debate should close and that Mr. Roberts should be the first speaker this morning. I was crowded out of the hall and out of my seat by the great influx of visitors. It was my intention to occupy five or ten minutes, in order to set myself right in relation to a portion of my speech on Saturday, which has not only been misunderstood, but grossly misrepresented; I ask permission to use five or ten minutes. I shall not need any longer time nor desire it, before the honorable gentleman from Davis County takes the floor.

Mr. ELDREDGE. Mr. Chairman, I will move that the gentleman have thirty minutes if he choose.

Seconded.

Mr. BUTTON. Mr. Chairman, before the motion is put, I would like to ask a question. How many more gentlemen are there in the house that want thirty minutes besides the gentleman who has just spoken?

Mr. VARIAN. None.

Mr. BUTTON. If there are none, I have no objection.

The CHAIRMAN. If there is no objection, Mr. Whitney, of Salt Lake, will be permitted to occupy a few minutes of time.

Mr. VARIAN. Thirty minutes.

Mr. ELDREDGE. Thirty minutes.

Mr. KIESEL. Mr. Chairman, I don't know whether I am in order or not, if not I will be so informed. I would like to renew the motion to adjourn to the Salt Lake Theatre instead of depriving the sovereign people of Utah of admis-

sion to its own halls; I do not approve of that. I think they want to hear this great debate and they have a right to hear it, and I think that is the place for us to go.

The CHAIRMAN. Mr. Whitney has the floor.

Mr. WHITNEY. Mr. Chairman, I do not deem it an unreasonable request that I have made.

It was I who seconded the motion giving to the gentleman from Davis County the privilege of closing the debate upon this question; he having requested that privilege in view of the fact that as he has been asked by his constituents to resign, it would probably be his last speech on the floor of this Convention. As this is probably the last speech I shall make on earth [laughter], for there is no telling what or where I shall be when the gentleman from Davis County gets through with me—I think it only right that I should be given a few minutes now.

In my remarks on Saturday I made mention of the fact that in the church to which the gentleman and myself belong, women are allowed to vote, and incidentally I stated that Mr. Roberts had been elected to a high ecclesiastical office by a congregation, two-thirds of whom were women. Because of this I have been accused of bringing into this discussion matters which should have been left outside. Some have gone so far as to say that I advocated the idea that the State of Utah should model its institutions after those of the Mormon Church. I am not afraid that my eloquent friend, in replying to me—for in his intelligence and fairness I have confidence—will revamp such an absurd and ridiculous idea. But I wish him to understand me clearly in every respect, so that he may answer, not what I have been falsely represented as saying; but what I actually did say.

My friend argued, you will remember, that suffrage is a privilege and not a right; that it ought not to be extended

to any class incapable of independent action, meaning that married women were not thus capable, and that they ought to be satisfied with the fact that at the polls and in public life they were represented by their husbands. By the way, I tried to convince my wife the other night that this was correct philosophy. I had stepped into the theatre on my way home and witnessed an act or two of the play in progress, and on reaching home, I endeavored to persuade Mrs. W. that she had witnessed the performance as well as myself, because, forsooth, in accordance with the philosophy of my admired friend, I represented her at the play. But it wouldn't work

And now passing on. I have stated Mr. Roberts' position. Let me now state what I said, or meant to say, in answer to him. I held that the right of consent—the underlying principle of the elective franchise—is an inherent right, possessed by every human being; that it existed before governments were formed, before constitutions were heard of; that it is a right which woman enjoys and exercises when she accepts or rejects an offer of marriage. She says yes or no, and thus votes upon the proposition as to who shall rule her in the household. The family, I averred, was the type of the state, and I contended that woman in the state was entitled to the exercise of the same right that she exercised in the family—the right to consent as to who shall or shall not rule over her.

In connection with this matter I mentioned that in the church to which Mr. Roberts and myself belong, this right is recognized and exercised, for the women of the church vote as well as the men, and vote independently and of their own volition. And I added that if a church which is generally though mistakenly supposed to be illiberal, especially to women, could afford to recognize that right, the

State of Utah could afford to be equally liberal.

That is what I said and what I meant. I did not say, or mean, or intimate, that the State of Utah should model its institutions after those of the Mormon Church.

I meant no disrespect to Mr. Roberts in stating that he had been elected by women's votes to a high ecclesiastical office. I referred to that incident simply to remind him in a mild way of the inconsistency of his present position.

So far as the charge of bringing into this discussion matters that should have been left outside is concerned, I have this to say, that while I do not see any thing improper in what I said, I should sit down quite comfortably under a vote to the contrary if carried by a non-partisan majority of this committee. But granting, for argument's sake, that what I said was improper, it seems to me that the last person to cast a stone should have been the gentleman from Salt Lake (Mr. Mackintosh) who called me to account for it upon this floor; he being the first signer of the minority report impugning the sincerity of the Mormon people in dividing on national party lines—the cause of all the acrimony exhibited in this debate.

The gentleman, in commenting upon my statement that probably six thousand women voted for Mr. Roberts on the occasion in question, declared that that was just what he was afraid of—that forty thousand women would so vote. He was answered by Mr. Wells, and I answer him now, that he, being a republican, probably feared that the forty thousand women would be democrats.

Mr. RALEIGH. Mr. Chairman, I think in justice to my constituents as well as to myself I should occupy a small portion of time. On this question my contention is that women born in America have the natural, inherent

right to vote, because of the freedom of our government, and have had the right though not the privilege from the incipency of our government. When we say that we are a representative form of government—a republican form of government, and that we have a government for the people and of the people and by the people, the ladies compose a large component part of that people, and hence naturally have the right to vote. Now, every man that is on this floor that has studied up the power and policies of governments knows that we are directly the opposite to an absolute monarchical government. We are the sovereigns. If there are any sovereigns in this government, the people are the sovereigns, and the women are a portion of the sovereigns, and have just as natural right—a born right—every woman that has been born within this government within the last 120 years or thereabouts has been born to that right. The simple fact that she has not had it conferred upon her legally is no reason why she should not have it, or no reason why she does not inherit it—no reason whatever. There have been many things put forth on this floor, that were not reasonable at all; that is they were not relevant to the case or the matter before us at all. And also every woman that has come into this country and conformed to the right—that has been naturalized, the right is inherent in them. It is a simple natural consequence. It is a simple natural result. It has never been denied. Men have put in all kinds of talk trying to reason why—but there is no cogent reason why women should not vote or should not have voted all the while. Now, because men got together in our government—our revolutionary fathers, and said what they did say in relation—in fact they did not say anything about women at all—didn't include them, with anything except silent consent; they went to work, that the free white male citizens should have the franchise,

and from such an age upwards. Well, now, that was perhaps as much as they could say. They left the rest unsaid at that time. Perhaps that was all they could have said at that time. But now the time has come for us to say that the women shall exercise the franchise just the same as men. The time has arrived. We are supposed to be a world of progress, and if we are going to get into a higher plane, why, we had better be about it. It is time, high time. It is true that in all respects they did not say at that time everything they thought to be so. They said in words in their Declaration of Independence that we had certain rights, that man was born free and equal, and so on. That did not happen to be true in every sense of the word, because there were slaves at that time, but later, in the providence of God, President Lincoln was forced by sheer circumstances to knock the shackles off the black man, and we, I think, had better knock the shackles off women before we are obliged to. Just let us do it freely and voluntarily. I had a great deal rather do a thing because it is right and just and proper to be done than to be forced to do it. I am not of that make-up that I like to do things because I am obliged to. I prefer to do them because they ought to be done, and when this is put into the balance—that is, that justice and right and everything is put in the balance, expediency may go to the dogs and the devil so far as I am concerned. I believe in doing right—the justice and the proper thing to be done under the circumstances, and when it justifies that to be done. This is about all the time I care to take. I could go on and enlarge upon this, but I do not wish to do it. I do not wish to take up the time of the Convention.

The CHAIRMAN. Mr. Roberts, the chair observes no other member upon his feet. The time will be at your disposal. [Applause.]

The chair must request that during

the course of the gentleman's debate, he be not interrupted with noise or with applause on the floor.

Mr. ROBERTS. Mr. Chairman, I congratulate the Convention that the discussion relating to the first section of the article on rights of suffrage and elections is now about to draw to a close. All gentlemen who desire to speak, have expressed their views, and their opinions, and have explained the position they occupied in relation to this question. I take it, sir, that it is not only a courtesy that has been extended to me to close this discussion, but I believe that in consequence of my relationship to it, that it is my right to do so. Logically the position of affirmative ought to have been taken by gentlemen who have opposed me on this proposition, and indeed I have endeavored to urge them to do so, making a special request of the gentleman from Salt Lake, of the fourth precinct, Mr. Whitney, who entranced the Convention by his eloquence, to do so, but he declined. And hence the privilege of bringing the debate to a conclusion has devolved upon me—a privilege I would have been willing to have accorded him had he taken his logical position upon this question.

There are, sir, a few personal matters that it is necessary for me to refer to before proceeding directly to the subject of debate, and that grew out of the remarks made by one of my colleagues from Davis County, Mr. Barnes, in which he read a letter or a copy of a letter addressed to me from the chairman of the democratic committee of Davis County—the gentleman who subsequently gave me notice that I must either change my position on this question, or he would be compelled to ask me to resign. My colleague said I had paid no attention to that letter. I think at the time he forgot that the day after I received the letter, and before an answer could be sent, the gentleman who wrote it, together with another

prominent democrat of Davis County, waited upon me in this building. We had a long interview upon the subject matter of that letter; as we drew our interview to a close, I told him that our conference in relation to it would obviate any necessity for my replying, at least for a few days, to which he assented. I had the letter I intended to send him as a reply, nearly completed, when his dispatch calling upon me to either close my mouth on this subject or resign, came to hand, and my reply to that of course, shut off all further necessity of consideration of that subject. I refer to this because I do not wish to be placed in a position before this Convention as being either disrespectful or inattentive to my constituents. I shall always treat them with the greatest respect and listen to whatever suggestions they may have to offer me, so long as I am their representative. The gentleman did me justice as I knew he would, because there is no man who possesses a higher sense of honor than my friend from Davis County, Mr. Barnes, who spoke on the occasion to which I refer; that is, he did me the justice to say to this Convention that he was the man who met me after the convention in Davis County had nominated me for delegate to this Convention; and that he told me when a proposition was introduced binding the delegates to work for and vote for suffrage, he himself refused to be bound and instructed in that way.

The gentleman, however, is of opinion that there was a modified resolution passed by that convention in Davis County, and perhaps, sir, that is correct; the gentleman may be entirely correct in regard to it. But, sir, there was no mention of that matter in the minutes that were published of the action of that convention. I took occasion on Saturday night to go through the files of the Salt Lake Herald, until at last I obtained a copy of those minutes, and gentlemen will look in vain i

them for any reference whatsoever to woman suffrage matters. These published minutes, with the conversation I had with the gentleman, since I was not in Davis County and in contact with my people, was the only thing upon which I could draw my conclusion in regard to the extent to which members from that county were to be bound on this proposition; and when the territorial convention assembled, and put in its platform the plank on woman suffrage, I felt myself at that time so opposed to it, that I had serious thoughts of declining the honor tendered me by the people of Davis County. I took into my confidence a number of leading democrats of this Territory, and went over the ground with them, explaining the conversation with Mr. Barnes, the absence of any mention of the subject in the minutes of the Davis County convention, and it was their united opinion that I could not be bound to support woman's suffrage, and that there was nothing that called for me to decline the honor that was tendered, especially as it was neither thought the proper thing to do, nor was there any necessity of making that question prominent in the campaign. I take the trouble to speak of these matters to the Convention, that gentlemen may understand that however much other members may have considered themselves bound by the action of conventions in the respective counties from which they hail, conscientiously I have no bonds upon me, to act in favor of this proposition. There are no obstacles in my way on that subject, and again, I repeat what I before said, if there were, if I considered myself bound by the platform of my party, and by the wishes of my constituents, in the face of facts that have since developed, and which, as I believe, are a menace to the attainment of statehood, I would still, sir, endeavor to serve my people in spite of their protests, and work for their best interests, which as I look upon

it, lie in the attainment of statehood for Utah.

With so much of preliminary, I may come now to consideration of remarks by members upon the subject proper. Of course, sir, if you look at a range of mountains, there are here and there lofty peaks that rise above their fellows, and upon those peaks the eye naturally rests. So in this discussion, rising above the common level, there are a few gentlemen who have spoken, to whom I shall consider it my duty to pay particular attention. I refer to this matter so that if I do not mention each one who has not entered the arena against me, he will not feel slighted [laughter], and perhaps if I discuss some of the remarks made by those more prominent speakers upon the subject, I shall be able to satisfy you all. Among these particular ones to whom I ought to pay attention is my personal friend, a gentleman for whom I have the highest regard, from Weber County, Mr. Evans, a man I take it, sir, who thought he answered my argument by telling me I was mistaken, and that my fears were ill-founded. Apart from making those statements with more or less of flourish and eloquence, the gentleman concluded by saying that if he was conscientiously opposed to woman suffrage, no party platform would stand in his way of opposing it; if he believed that suffrage would degrade woman, no party platform would prevent him from opposing it. So I take it, that in the opinion of that gentleman, since I am of the opinion that it would be injurious to the State and degrading to woman, I am absolved.

One thing else the gentleman asked in fervid rhetoric, and that was, he would like to know what possible harm could come from his mother accompanying him to the polls. Well, sir, as I am of the opinion that his mother must be a most estimable lady, I think no real harm could come from her accompanying him to the polls, and I am rather

inclined to think it would be a good thing for her to do so [laughter]; and not only accompany the gentleman to the polls but I doubt not it would be a most excellent thing for him if she were constantly present with him to guide his footsteps through the meandering pathway of life. [Laughter and applause.]

Another of these mountain peaks in debate to which I ought to refer, was a gentleman (Mr. Wells), who spoke to us yesterday, out of his place, as he himself puts it, but nevertheless "in the ring." That gentleman, after detaining the Convention for a considerable length of time in a set speech, which both amused and instructed members, conscious, I doubt not, that there was not much force in it, finally told the Convention that he had an aunt, who if she could have the privilege of the floor and the freedom of debate, would be able to make such a speech on this subject that the committee of the whole would immediately take to flight and pull the hole in after it. Now, sir, I doubt not that that possibly would be the result, that we all would be converted if the lady instead of the gentleman had had the privilege of the floor and the freedom of debate; but there was one thing that appeared very curious to me, and that is that the eloquent lady had not more effectually converted her worthy nephew to her views, for, as I remember the whole tenor of his discussion, he believes in woman suffrage in a very attenuated form. Why, sir, I could almost strike hands with him and vote as far as he is willing to vote for suffrage of women.

And then, sir, the gentleman wondered in his soul how it was that anybody who had lived under the gentle sway of Victoria, queen of England, could object to woman voting in this country. I think, sir, that the gentleman overlooked what are well known to be the facts of history, and what he knows to be the facts of history, if he would but take a second thought of it,

and that is this; Queen Victoria, however worthy the lady may be, is not, nor has any king or queen of England for three hundred years, been the ruler of that country. I presume we have all seen a figurehead upon the prow of a vessel, but not one of us has ever been deceived into thinking that it was some force in that figurehead that drew the mighty vessel through the stormy waters of the Atlantic.

If you would know what force propels the mighty steamer against the ocean currents and head winds, you must needs look to the rear, where plays the throbbing wheel and the helm guides the vessel through the waters. And so if you would know who the real governors of England are, you must look to parliament and the prime ministers of the country. Gladstone, Disraeli, Lord Derby and others, are the men who have governed England, and not the queen, not the king. For more than three hundred long years there has not sat upon the throne of England king or queen who has dared to oppose the will of the people as expressed through parliament. What do crowns and coronets amount to when they are reduced to this extremity? They have become nothing but figureheads, an insignia that in ancient times was the emblem of power. And I wish to say that to-day the thing that enshrines Victoria, queen of England, most in the hearts of the world, is the fact that she was a faithful, devoted wife, a pure and noble mother. [Applause.]

Against this lady spoken of so eloquently by the gentleman, I put the queens of the White House, unenfranchised it is true, and uncrowned, and yet who have every reason to be prouder than Victoria upon her throne; because, sir, their positions grow out of the fact that there is behind the husband, by whose side they stand, intellect, ability, force of character, that have been recognized by their fellow

citizens, and she has cast an influence upon his efforts, she has lent courage to him in the hours of darkness, and the glory is not his alone, but they share it together; and the unenfranchised wives of presidents in this United States have reason to be more proud than those who come to places of honor simply by the accidents of birth.

Now, we come to the proudest peak of them all. [Laughter.] You seem to know whom I mean. Before I enter into a criticism of what that gentleman had to say upon this subject, I ought to pause upon the threshold of the undertaking and ask myself what I am, what hero in the history of the world I am not, what hero has been selected to represent me; but most important of all I ought to discover whether I am a fish, flesh or fowl, and locate myself in the animal kingdom, as well as to seek out my place among the heroes of history.

The assault of the gentleman, for it could be called nothing else, was deliberately planned. In the silence of private study the arrows were sharpened and I must need think, sir, dipped in the gall of the gentleman's own bitterness. He denies me the honor of being Horatius at the bridge beating back the Tuscan enemies of Rome. He would not permit me in his comparisons to be represented by Leonidas at the pass of Thermopylæ. He elevated me one moment, only that he might debase me the more the next moment, and finally, sir, concluded that I was a bull without judgment, an ass without inspiration. I grant you, sir, that the thought was negatively expressed, by that peculiar trick of rhetoric, which affirms a truth in the form of a denial of it, but in his graciousness, and some pity perhaps, coming into his heart, he finally gave me an alternative from those dire comparisons; and I might choose Napoleon flying from Leipsic, imprisoned at Elba, back to Waterloo, thence banished to St. Helena, to die in

solitude; or if I chose I might be compared with that proud spirit that looked omnipotence in the eye and told Him His good was evil. I thank the gentleman for the alternative. I presume that either Napoleon or the devil would be preferable to Balaam's ass, especially when inspiration shall not accompany it. [Laughter.]

But the gentleman overshot the mark, if he intended to wound my feelings; because, sir, he kept me in such a state of suspense to know what my final destiny would be, that in my anxiety to find that place, I forgot that I was receiving a castigation. However, if the gentleman is satisfied with his elegant comparisons (and of course he is a gentleman of refined tastes, as we all know, a poet, too, of no mean ability), if his remarks are satisfying his soul, why then, I shall not complain. But I would be pleased to know what relevancy all this had to the discussion that was brought upon this floor. I can see only one means of explaining it and that is this, the gentleman sought to break down the force of my argument, by making me appear contemptible. Well, sir, I am not very proud. I have no reason to be, and I am willing in this long list of comparisons, to take the humblest of them all; and in doing that I presume I shall please the gentleman, and at the same time I think I shall be able, even in the capacity of Balaam's ass, to still instruct our poet delegate. [Laughter and applause.]

The facts in the case in regard to Balaam's ass, if the gentlemen would but read the story, are decidedly instructive, especially, sir, as there are so many points of resemblance to this case. One Balak, the son of the king of Moab, discovered how merciless was the war that Israel waged upon the Amorites, and sent for this prophet, Balaam, to curse Israel, offering him high honors and rich rewards if he would do it. It seemed that the prophet, dazzled for the moment by the

glamor of the promises of the king, forgot his true office both to God and the people, and started out on this mission of cursing. It is said, sir, in the narrative, that an angel with a drawn sword stood in the way to head off the prophet, and the ass taking alarm at threatened danger, fled into a field near by. The prophet, if he did not use imprecations, at least did use blows, and finally brought the ass back to the road. Presently, when the road entered into a narrow lane, with a wall on either side, the ass was again confronted by the danger that threatened the prophet, and in his mad effort to get by the danger, he jammed the prophet's foot against the wall, and this again aroused the wrath of the misguided prophet and with blows he brought the poor ass back to the middle of the road. The next time the danger confronted, the prophet was in a still narrower way, where there was no escape whatsoever from the threatened danger, and the ass laid down and refused to go any further in the direction of the danger and the mad prophet beat him again, but at last the kind powers above, in pity of the dumb brute, spake through him, and the ass reasoned and said, "Have I not been thine ass these many years? Have you ever known me before to treat you after this manner?" As if he would say, "Know you not there is some danger in the way? You ought to know that an ass so docile, so faithful, so careful of you as I have been, would not have taken the course I have unless there was some obstacle of danger threatening?" [Applause.] And then, sir, the eyes of the prophet were opened and he at last saw what the ass had seen. He beheld the danger, and in humiliation, he said, "I have sinned." Now, sir, when this question was first brought upon the floor of this Convention, knowing, believing, aye, and I was not mistaken in the word that first came to my lips, knowing that there was danger for

statehood for Utah, if this matter was pushed to an extreme, I sounded the note of warning in this Convention. Your ass ran away with you into the field, if you will. [Applause.] Beaten back into the narrow way, I again endeavored to shun the danger; and again was belabored and beaten. We have come now into the narrow pass and I lay down. I ask these gentlemen, who have known me, if I am an alarmist in my nature, or am I disposed to cry there is danger, when I really see none. And now in this third issue of the narrow pass, I would to God that some kind power would touch the eyes of my blind prophet friend, that he too might see the danger and say, "I am mistaken." [Applause.] That we might not see the humiliating spectacle of an ass instructing a prophet. [Laughter.]

The gentleman, as I remember, makes two complaints against me. One is, he thinks I have tried to absorb in myself all the virtues of noble motives in this Convention, and that I brand the rest of you with cowardice. I will explain, I hope to the gentleman's satisfaction, and also to the Convention's satisfaction, the meaning of my remarks in that particular line. With the gentleman from Salt Lake who has so earnestly declared that his convictions run parallel with his action in this issue, and with all gentlemen that are in the same condition as he, on that subject, I take no issue, and I give to them credit for all the noble sentiments and motives that belong to honorable men. But, sir, I am aware and so is this Convention, from positive declarations made upon the floor of this house by gentlemen, that their actions run one way and their convictions another. Whenever I see men occupying the equivocal position, I have some misgivings in my own mind as to the result of their action under such circumstances. And when men would come to me and speak their fears to me, and tell me of their convictions being against this,

and yet they were bound down by those ill-considered party pledges, and, were going to do something for the people which they believed would work an injury to the people and to the coming State, I brand all such with cowardice, and they may make the most of it. [Applause.]

The next complaint of the gentleman was that I was too harsh, too severe in the course of my argument in reference to the ladies. That, too, I think I shall be able to explain to the gentleman's satisfaction. The line of my argument was this, that public political life, mingling in political strife, partaking of the bitterness which is injected into politics, coming to primaries, struggling through the mass of men who surround the ballot boxes upon election days, that women expose themselves to gibes and jests, which if they could but hear would bring the blush of shame to their cheeks. In support of this proposition, I read what dispatches said of the meetings held by the board of lady managers of the Chicago World's Fair, and pointed out the fact that these women were among the first and most intelligent of all our land, and if coming together in a public hall to engage in the management of the affairs of an institution of that kind would bring about such shameful scenes as were there enacted, and if the dispatches relative to women in politics from Kansas and other parts that I read were true, the whole tendency of this public life was degrading to woman and that it was the part of wisdom for women to keep separate and apart from such places and such embroilments, that they might not become the subjects of jests and gibes of low-down characters whose mouths you cannot stop. That was the trend of my argument and I produced the evidence of it. The ladies frowned, their valiant supporters looked displeased. All I have to say is, that if I was unkind, it was the unkindness of

the surgeon who cuts into human flesh, not to wound, but to heal. And, sir, I take it, that it is time that someone should point out to woman, even if it does bring to her face the frown of displeasure, that she is in danger of sacrificing that which is dearer than the ballot to every sensitive woman—that she is in danger of sacrificing that sensitiveness of soul, in danger of sacrificing the high regard of men, which ever goes with true womanhood. [Applause.]

In answer to this, I think the gentleman from Utah (Mr. Thurman), asked, "Do not men fight and quarrel?" and instanced a scene in the Indiana legislature. I grant you that men often do this thing and it is degrading and disgraceful to them. Ten times more would we feel the disgrace had women been engaged in it. It is no answer to the argument to say that men do these things. I once saw a woman chewing tobacco. It was a vice, a hundred times more disgusting in her than in man; and because men indulge in these things, and because the spirit of political strife is rampant, when men's passions are aroused, and their interests and their ambitions are at stake—it is for this reason I would exclude women from participation in political life. They tell, however, that this evil will not run side by side with granting the franchise to women, and in evidence, they point me to Colorado, Kansas, and Wyoming. Why, gentlemen, it is as if two men stood by the side of a beautiful tree, in full leaf in the month of June, when the sap runs through the channels of the bark, and gives freshness and life to its verdure. One says to the other, "If you girdle that tree, cut off its bark, the leaves will wither and the tree will die." The other man immediately proceeds to girdle the tree. As soon as he does this, he steps back and says, "there is not a leaf that has changed its form. It is as beautiful and fresh as it ever was." And yet we know that only a few short

days shall pass and the leaves will wither and curl up, grow dry, and the winds will carry them away and the tree never bear a leaf again. So is it with the influence of political life upon women. Let it operate twenty years, let it operate fifty, a hundred years, we will have a womanhood from whom we will dispose to flee. [Applause.]

My friend then took the illustration I used in regard to the tumbling and mingling together of the waters of the Mississippi and the Missouri, and in a poetic flight which was one of the most sublime that I ever listened to, carried those streams muddy, and bearing filth in them, to the ocean, where purified by the elements operating there, the muddy stream was again converted into sparkling drops to bless the hill tops and make glad the valley with verdure again. Oh, sir, that was a poem in itself, and out of my respect and regard for the genius that could thus pick up this stream and make it pure, I joined with you heartily and sincerely in a tribute of honor to the genius of my friend by applauding him. But, sir, there is only one thing that injures the gentleman's work on that particular matter, and that is the stream of politics has no ocean in which to run. The only means of its purification are fountains and small rippling streams flowing from those fountains, bringing clear fresh water into the turbid stream of political life. Those fountains are the homes of the people; those streams the influence that glides out from those homes, and these fountains and these streams, my friend would corrupt until there is no purification left for the main stream of political life. [Applause.]

Imagine a man, after struggling in a primary for the success of that candidate whom he believes will serve the interest of the people, coming home from the sweat and heat of a campaign meeting, with the frown of displeasure on his face and bitterness doubtless in his heart, tired and weary of the world.

In a short time, the prattles of his babes, the kind attentions of his wife, joining with her in some intellectual pursuit common to them both, or mingling in the social circle with friends, from which circle by a wise common assent political discussions are banished, the frown leaves the face, the hard lines are softened, his heart is filled with the song of gladness and he begins to feel that there is something in life worth living for after all. But suppose he came from his political struggle to his home, and was met at the door by a wife opposed to him in politics; and again he had to go over the fight on tariff or free trade; free silver, or a single gold standard; or else observe a sullen silence because of the impropriety of engaging in a discussion with his wife on these lines. Where then will the brow be cleared of the frown and the heart lose some of its bitterness, so that when the man leaves his home and again enters the arena with his foes, he may have some milk of human kindness running in his veins? Gentlemen, leave the home alone. Keep political strife out of it. Women of Utah, be content to reign over the empire of domestic life, and it will bring more joy to your hearts than all the success you could have in casting your ballots at the polls. [Applause.]

But all this is preliminary. The fight is still ahead. [Applause.] I come to the arguments of the gentleman. I understand him to announce in his first speech and he emphasized it here this morning, and I am particularly glad that he did emphasize it, because now it is fresh in your memories, and I shall not be under the necessity of repeating what he said upon these subjects, for you heard him, that woman's right to a voice in the selection of those who rule her, whether in the family, the state or the church, is a God given and inherent right. This he emphasized upon the floor of this committee this morning. I believe this gentleman to be a man who

has the courage of his convictions, and if he believed the elective franchise to be an inherent, indefeasible right, I wonder how it is that in writing the declaration of rights he did not say in emphatic language and submit it to this Convention, "The right to vote is an indefeasible, inherent right, the same as the right to enjoy and defend life, and liberty, to acquire and possess and protect property, and to worship according to the dictates of conscience." Gentlemen of the committee, in the bill of rights, did he introduce his doctrine? If he did, you smothered it in committee. Did he introduce it upon the floor of this Convention? Had he done so, members would have laughed it out of the door. Because it is not true. You know it is not true. The elective franchise is a privilege conferred by governments and may be hedged about by conditions prescribed, that natural and inherent rights are never hedged about by.

The gentleman, in illustration of this position of his, untenable as it is, and the fact that it is denied by the governments of all the American states, by the government of England and of Europe at large, would have been a sufficient answer to the claim had it been made in the emphasis that he ought to have put it in, insisted that the woman ought to have the same right in the state which is accorded to her in the church, and accorded to her in selecting her partner for life. I take it from the explanation that the gentleman made us this morning, that he has learned that he added nothing to his reputation for sound judgment and good taste by bringing in those comparisons upon this floor. I understood the gentleman in his first speech as I understand him in his second speech. All I shall do in taking note of his position and the character of his argument, is to simply ask him this one question: Can he see no difference between the exercise of the franchise in voting in the church and in the state? Are the offices of the church

to which he has alluded the objects of ambition among the members? Are there primaries held, are there emoluments to be clutched, are there advantages to be gained for parties, or is it the theory of that church that the Divine wisdom make the selection to which the people merely give their consent? Can he see no difference in sitting quietly in a great congregation and assenting to what Divine wisdom has already pointed out, and the wrangling and struggling, the quarreling and bitterness and strife that pertain to political elections? When he can bring the state into such a high condition of perfection, that through the channels of its administration, there shall be no more friction than in the church he names, and when the offices of the state, as they are in the church, are above ambition, then, sir, the chief objections to woman's suffrage so far as I am concerned will have ceased. [Applause.] Next, I wish to ask the gentleman if he can see no difference between a woman engaging in the embroilment and strife, the bitterness and hate, which grow out of political life and a struggle to get to the polls to vote, and a woman, beneath the quiet stars under some friendly tree, whispering the sweet "yes" to the proposition of marriage, or under other circumstances giving a firm decisive "no" to the proposition? As I understand it, sir, those things are not preceded by any of the circumstances that make political life unfit for women to engage in. I know not what the experience of the gentleman has been upon this subject. [Laughter.] I remember that he singled out my friend from Sanpete County who was kind enough in this fight to stand by me and do yeoman service in the cause. I observe that he singled him out, since he is a single man, and told him with very great emphasis that he would discover that a woman could say "no." Considering the dogmatical air with which that was said, I must.

needs come to the conclusion that the gentleman's positiveness is based upon a very wide experience in that line. [Laughter.]

I observe in the rest of the gentleman's argument the same confounding of things as to church and state; because the gentleman states that under other circumstances and in other places he had heard me discourse upon the individual responsibility of every soul to his God.

And for that reason, the gentleman seems to come to the conclusion that I have disregarded all secondary relations and that by urging this proposition to which he alluded, I would disrupt the secondary relationship between the child and the parent, between the citizen and the state, between the subject and the monarch, between the husband and the wife. I fear, sir, that the gentlemen, in taking this position, has most distinctly exhibited to us what I should characterize as the great fault in his great character. I accord to him high gifts; he is a man of learning and of parts; and when I say there are defects in his composition, it is not for the purpose of lessening him in the opinion of his fellows. To say that a man is not great in every point in character is not to deny him greatness. If any of you were to say of me that I am not a poet, while he is, I should take no exceptions to that, and I say that the gentleman in his argument has exhibited to us his inability to segregate things and accord to them their proper relationship, but he rolls all things into a mass and reasons upon premises that lead to diverse conclusions. If my friend from Utah County, Mr. Thurman, (who, by the way, as I understand it, was the one who was to enter into this debate with me,) will permit me to be critic long enough, and to use that criticism upon my friend whom I am answering I would say, that he lacked the logical sense, philosophical sense, which separates each thing to its proper place and

eliminates sentiments and poetics from legislation, and recognizes the fact that you must deal with humanity as it is, and not as his poetic ideas would paint it. [Applause.]

There is one other argument that I ought to refer to, not advanced by the gentleman from the fourth precinct in Salt Lake City, but advanced by another gentleman on that side of this question, and I presume he would take it as a slight almost if I did not pay my respects to him in passing. [Laughter.] I believe also, this same argument was suggested by my esteemed friend from Utah County, and that was this, that the staple, reliable vote of this country came from its married men (an idea with which I am in strict accord. Of course all of us married men would be in accord with that sentiment, though my friend from Sanpete County might possibly take issue with us on that proposition.) And if you grant woman the suffrage, the result will be that you double the good vote. Well, sir, when I first had that argument hurled at me, for a moment I thought a point really had been made, but I happened to remember that our government is conducted by parties, and if I understood the gentleman's theory right, in the main man and wife would vote one ticket, standing side by side, as this gentleman and his estimable wife stand side by side, and you double the vote; but upon second thought, I happened to remember that on the republican side you do the same thing, so that the two votes would neutralize each other, and there was nothing gained in the gross, one family casting two votes, one on the republican side and one on the democratic side, when heretofore the same thing had been done by only one vote. Now, sir, I was somewhat astonished that the argument should come from a democrat. Had it been a republican who advanced it, I would have understood it, because they have been trained

in a school that holds that if you tax B in the interest of A and then turn around and tax A in the interest of B, both will get rich at it! [Laughter.] //

But when the kind of reasoning introduced behind this point is made by a democrat, I say, "Oh, fie, upon it! we thought for better things."

I think, sir, that in all fairness I may say, I have passed through the arguments offered by gentlemen. There are no other arguments that occur to me that are worthy of consideration upon this floor, or that were joined in issue. And now I want to ask how has it affected the question as discussed upon this floor?

I laid down first, the proposition that the franchise ought to be confined to those who are capable of acting independently. Has that proposition been controverted by argument? I have failed to hear them if it has. Still further, I stated that such was the relationship of woman in the family that she was not capable of acting thus independently without the dictation or the suspicion of dictation from her husband—has that been controverted? Gentlemen will deny that there will be such dictation, but is that an argument? Do we not know from the great facts of human nature that it will be so? Do we not know from the difference of man's nature and woman's nature that it will be so?

Second, I laid down the proposition that the elective franchise was a privilege, not a right. Has it been proved to be an inherent right? On the contrary did I not show that this doctrine, first announced in the Declaration of Independence, that "governments derived their just powers from the consent of the governed," is subject to such modification as to lead our statesmen to exclude women from expressing their consent?

Third, have they proved that the great mass of women of voting age are not already sufficiently represented in

politics by husbands, fathers, sons, or brothers?

Fourth, that in the case of unmarried property owners, have they proved that there is discrimination made against woman in the matter of taxation? And here let me refer to this great clamor of theirs about taxation without representation. The married women have without representation, those who are unmarried and are property owners. I went so far as to say that if gentlemen who intended to enfranchise these, I had no serious objection, because it would meet the demand for no taxation without representation, and the number would be so few as not to materially interfere with the welfare of society or domestic peace. But I argue that there was no real occasion for this, for the reason that women in taxation are not discriminated against, that there was no possible means by which they could reduce taxation, and therefore, even this much of a concession was not necessary,

Fifth, have my opponents proved that the principle upon which franchise has been hitherto extended, was for the purpose of protection, and has never been granted because of intellectual equality? That is the principle upon which franchise has ever been granted, for protection against oppression; and notwithstanding all the talk about oppression and tyranny, there has not been an instance of oppression and tyranny produced that would lead us to say that woman ought to have enfranchisement to protect her from man; in other words, men and women are not natural enemies, one needing protection against the other; but that they are on the very best of terms. The fact that they marry proves it.

Sixth, have my opponents proved that the steady refusal of statesmen to grant woman the elective franchise for the past two hundred years was unwise? All change is not progress. All the customs that have been bequeathed

to us by antiquity ought not to be stricken down, because some customs ought to be. Some of these customs, sir, are monuments, that bespeak the wisdom of our ancestors, and we ought to have a decent respect for them.

Seventh, have my opponents pointed out how women are to work the wonders and the reformation that they will when given the ballot? Have they told us what laws women would change, or what law is desirable to change? Have they explained to us in what manner they will be able to elect all good men to office to administer the laws?

I have heard nothing of all this. These, I take it, are the arguments that ought to have occupied the attention of my friend, and it would have been more effectual than to undertake to break their force, by an attempt to debase me. He gave us a beautiful reference to the forces of Wellington and Blucher. Why, sir, had Wellington and Blucher led the grand army of France alone, had they ceased to pursue the old guard and turn all their attention to capturing the "Little Corporal," it is quite possible that under Ney or some other mighty leader the broken army might have been gathered together through the night and hurled with renewed force upon the British and the Germans the next morning, and we would have had another history for Europe than that we have now. The gentleman made a mistake in pursuing his Napoleon and leaving the grand old guard of his arguments to live and meet him here again to-day. [Applause.]

I might, sir, before this discussion had proceeded so far, have had some timidity about the position I assumed and the arguments I advanced in support of it; but after throwing them out here for the inspection of this intelligent Convention, with champions arrayed against them, whose eloquence and power of analysis were sufficient to point out the fallacies in them if they exist; since, sir, I say, the attempted

argument was abandoned and I was singled out for their pursuit, I stand here to-day more firmly convinced of the correctness of my position than ever before in all my life. [Applause.]

Next, I must pay a little more attention to my expediency argument, which I thought was sufficiently explained, having given reasons why I introduced the question of expediency; and yet it seems there is one member who spoke this morning on that subject that did not understand it, and this gives me a double justification for going into the matter again. Is my argument upon this branch of the subject answered when men get up here and mock my fears and tell me that my apprehensions are ill-founded? Are they ill-founded? Let us consider it. What means the interest that is suddenly awakened in this subject? Why are these halls crowded? Why are mass meetings called? Why is the press of this Territory warning you members of the Convention by giving voice to the fears that I have the honor to express on the floor of this house? I read, sir, from the Ogden Standard of March 29th, a few lines of its editorial:

A few days ago the Standard warned the Constitutional Convention that it would be exceedingly dangerous for the acceptance of the Constitution if it had to run the gauntlet of high taxes, prohibition and woman's suffrage. In an impassionate though logical speech, Delegate Roberts took up the fight upon the lines marked out by the Standard, and opposed incorporating the equal suffrage clause in the Constitution. Mr. Roberts declared, as the Standard had already done, that equal suffrage in the Constitution would do much to defeat it with the people and would be the excuse why Cleveland would not accept it. Reference was also made to the lingering idea that some antediluvians still foster that the Mormons would act with bad faith. While we do not share this sentiment in the least, it is well to anticipate the effect it will have at Washington.

You will understand that this is only one editorial out of a number that have been written in the same line. Now, I call your attention to a publication

printed in this city under date of March 30th, in the paper known to you all, the Salt Lake Argus, from which I will read a few extracts:

The article relating to elections and rights of suffrage (the woman's suffrage plank) was received and debated with an energy and a vehemence that left no doubt as to the position of those who participated. The debate gave the politicians a glorious opportunity for scoring records, which will be of some benefit to them in the sweet bye and bye, but of the many known opponents of the measure conferring the elective franchise on women, only a few had the courage to express their honest convictions and sound the note of warning, which, if not heeded, will, it is predicted, result in a political strife beside which the contentions of the past will sink into insignificance. The minority in its report voiced the fears of over 30,000 of the people of Utah, that if the privilege of voting was restored to the women of Utah only a short time would elapse before the old political conditions would exist and of necessity the old contentions be revived. It called attention to the fact that it has only been a few years since Congress withdrew the privilege of voting from the women of Utah because in the friction between the nation and the ruling power in Utah the sympathies and devotion of the women all bending in one direction, in the judgment of Congress, made it necessary to take suffrage from them in order to begin to place this Territory in harmony with the Union under her laws. The hand of a politician did not write nor the brain of a schemer conceive those plain Anglo-Saxon sentiments. The fears expressed therein are held by men who acquiesced in the insertion of the woman's suffrage plank in the platforms of the two political parties; they are voiced every day by hundreds of men on the streets of Salt Lake, they are entertained by almost every Gentile in the Convention, and yet a Mormon led the fight against it.

Not more than four years ago, in a public political meeting, a prominent lawyer declared that if the scheme to disrupt the liberal party was successful, there were but three plans for the Gentile portions of Utah's population to pursue, submission, emigration or revolution. It is evident from the attitude of the Gentile members of the Constitutional Convention, and from the apathy shown by the opponents of the measure, that the plan of submission has been adopted. Men, during the years that have passed, have been the tutors of the masses in politics, in this Territory, men who, with pen and voice, have in-

flamed the Gentile mind against the dominant people; men who schemed, not at all times honorably, to disfranchise men voters, and who succeeded in depriving women of the right of suffrage; men who have stumped the Territory having for their principal ammunition the woman's suffrage issue, and in language lurid depicted the ruin that would be wrought to Gentile industries if it again should prevail, and who even now in secret voice their distrust of Mormon sincerity, and at all times openly denounced their alleged duplicity in matters political, sit silent in that Convention and by their silence stultify what many of us have imagined heretofore were honest, patriotic, and unselfish records. None of the old time leaders have had the courage to express what are undoubtedly their convictions, but instead, like captives at the stake, sulk, and by their assumed fortitude expect to gain sympathy from their once blind followers, on the ground that no effort of theirs can ward off the threatened calamity. The Argus understands that a tacit agreement was entered into by many of the Gentile republicans, not to fight or vote against the measure, and in defense of their position they have raised the baby cry that not a single protest or remonstrance had reached the Convention in proper form. They forget that had they met the issue as honest men and not avoid it like scheming politicians, there would have been ten thousand men and twice that number of women and children wishing them godspeed. That even the pulpiteers would have stopped long enough in their mad race for the prohibition cup to have voiced their opposition; that a sentiment would undoubtedly have been created throughout the country that would have caused at least a temporary shelving of a measure, which, if successful, will undoubtedly be a bar to the State's progress, and an excuse for waging the old fight on the old lines; that they would have earned the plaudits of all respecters of manly courage and escaped the just sneers of men who have heretofore looked upon them as honest and sincere foes—as men who have battled for what they conceived to be the right and the achievement of that which would redound to the benefit of all and not to their personal political advantage.

This committee, in language that neither you nor I approve, pointed out this danger. This comes in confirmation of it. Read this morning's paper on them. The Salt Lake Tribune warns you of this danger. Even the Herald

has begun to move sufficiently to confess that a clique exists to prevent the attainment of statehood. These voices that you hear from all parts of the Territory warn you of the danger into which I believed from the first you were running, and it is idle to close your eyes or your ears to these circumstances. You may as well, like brave men, look them in the face and prepare against the evil day. I hold in my hand a bundle of letters and dispatches from all parts of this Territory, one from the chairman of the democratic meeting in Ogden, informing me that two-thirds of the people of Weber County are against this proposition. [Applause.]

Mr. KIMBALL (Weber). I believe he is right.

Mr. ROBERTS. They join, both democratic chairman and republican chairman, in asking you to delay action until the sentiments of the people may be voiced in Ogden City tonight. It is folly to tell me that there are no grounds for these fears. I wish to say further that it is not alone this fear that concerns me. I want statehood for Utah first of all. The gentleman from the fourth precinct, (Mr. Whitney) refused to accord to me the position of a Horatius at the bridge; I am not Leonidas in the pass of Thermopylæ. I am not a hero fighting for freedom. That sir, may be true. I only ask this, as my standing in this Convention, an honest man, who asks that statehood shall be worked for in behalf of the people of Utah, and secured, and I believe that that is the first essential to liberty for our people, and for that I mean to contend, and ask this Convention to remove even the pretext that men erect as an excuse for acting against it.

Gentlemen say that if we cannot have statehood with suffrage, they prefer territorial vassalage to a statehood that would not permit suffrage! Woman's suffrage is your only battle cry of freedom! Statehood must be relegated to the rear, and gentlemen,

with eyes shut and teeth set, are determined that, statehood sink or swim, they are going to have suffrage. If it should come to a question in reality and in truth as to whether we should have suffrage or statehood, they demand suffrage in preference to statehood without it.

You will pardon me now and not take offense at what I am going to say; if you get excited, hold on to your chairs; it is only this—I am taught by my eloquent friend from Salt Lake, of the fourth precinct—that if, in spite of all the dangers that exist, you will rush on and have suffrage, whether or no, I want to tell you, that it would not be even bull sense, it would be bull folly! Pardon the coarseness of the remark, I learned it from my poet delegate. [Applause and laughter.]

There is another gentleman to whom I must pay my respects. I cannot accept the views expressed on the floor of this Convention in relation to duties of the representatives of the people. The remarks of the gentleman from Salt Lake (Mr. Varian) who laid down as the political law that a delegate had no choice but merely to voice the sentiments of the people who make him their representative, I think I were mistaken. I am not unmindful of the fact that his political experience is such, his wide practical knowledge of the affairs of government is so much greater than mine, that I ought to defer to what he said upon this subject, upon which he has special information, of course; but he will bear me out when I say that leaders of political thought and men who have been in representative life take different views upon that subject. There are some at least who do not believe a delegate becomes a stick, that he does not rise above the condition of an agent to carry out the wishes of his constituents. Among that line of statesmen who claim for themselves a wide margin for the operation of judgment upon which to act for the good of their constituents,

as circumstances arise—a man who stands at the head of that school of statesmen—is no other than Edmund Burke. Let me read to you what he has said upon the subject:

But authoritative instructions, mandates issued, which the member is bound blindly and implicitly to obey, to vote, and to argue for, though contrary to the clearest conviction of his judgment and conscience, these are things utterly unknown to the laws of this land, which arise from a fundamental mistake of the whole order and tenor of our constitution.

Parliament is not a congress of ambassadors from different hostile interests; which interests each must maintain, as an agent and advocate, against other agents and advocates; but parliament is a deliberate assembly of one nation, with one interest, that of the whole; where no local purposes, no local prejudice ought to guide, but the general good, resulting from the general reason of the whole. You choose a member indeed; but when you have chosen him he is not a member of Bristol, but he is a member of parliament. If the local constituent should have an interest, or should form a hasty opinion, evidently opposite to the real good of the rest of the community, the member for that place ought to be as far as any other from any endeavor to give it effect. I beg pardon for saying so much on this subject. I have been unwillingly drawn into it. But I shall ever use a respectful frankness of communication with you. Your faithful friend, your devoted servant, I shall be to the end of my life, a flatterer you do not wish for.

The peculiar ideas pertaining to the duties of representatives of the people held by some have reduced our Congress, our legislative assemblies, to a most degraded condition. It is this idea advanced upon the floor by this gentleman that has brought into existence those hybrids in politics, bounty-paying, high-tariff democrats, and free-trade republicans, until, when Congress meets, you find men struggling for the advantage of their own particular district, and your representatives become mere politicians, fawning at the feet of their constituents, without the courage to look over the whole land and like statesmen declare what would be the general good and legislate in its interest.

Statesmanship is being sunk into the pool of mere political clap-trap.

Mr. EVANS (Weber). You would not apply that to the gentleman from Ogden, I suppose?

Mr. ROBERTS. No, sir.

Mr. EVANS (Weber). There you say two-thirds of the people want woman suffrage?

Mr. ROBERTS. I am speaking upon the general principle in this connection and I have done so for the reason that I wish to call attention of members—

Mr. VARIAN. Will the gentleman permit me a question before he leaves that subject? With permission of the chair.

Mr. ROBERTS. Yes, sir.

Mr. VARIAN. Is it not true that in England candidates for parliament make their own platforms, and announce themselves to the electors of the respective districts as willing to stand on the platforms they have written, and is it not also true that our system of nominating candidates and directing party policies is entirely different?

Mr. ROBERTS. I grant the gentleman that the custom is largely as he has stated it; but in addition to that also, there exist political parties in England, which also have platforms, and if not written, are none the less real on that account; and both the individual platforms and the general platform of the party to which he belongs influences his conduct. Now, sir, upon this point it occurs to me to say that what we need is men who shall have the courage to stay the headlong force of their constituents if they see that it is running into danger. I grant you that members are elected to Congress upon well settled principles, not novelties, not fads, and when these fads and novelties find their way into political platforms, and members become convinced that it would work mischief to the constituency, we want men that shall have the courage even to offend

their constituents, if necessary, to arrest the progress of the evil.

I wish now, briefly to refer to the manner in which suffrage came into the platforms of the parties. In my first speech I charged that there had been no anterior agitation of this question of suffrage; it was based upon the idea that was supposed generally to prevail, that it was a pet subject universally accepted in this Territory when the republican party met in convention, it was confronted by this fact—and if I speak of Mormons or Gentiles I want it understood that there is nothing opprobrious either in the one name or the other to me; I use them simply for distinction; but the republicans were met with this condition, that the great majority of their members were also members of the old liberal party; it was anxious of course to increase its membership and gave a welcome to all their Mormon friends to come into their party, which of course, was strictly right and proper. One of the means to attain that end was the consideration and final adoption of that plank on suffrage.

There has not stood upon this floor, I think with the exception of one man, and he told us he was not present at the convention, who has said I was mistaken, and that suffrage was introduced into the party platform purely upon the love of the principle of it. On the contrary, members in private tell me that the one consideration was—how will it effect us practically? And it was decided that it was the only way of salvation for them. Thus they adopted it in language which technically is equivocal, not that they intended it to be so. I accept the statements of the gentlemen here that it meant woman's suffrage in its broadest sense, but you will observe that the language is, "we favorequal suffragefor women." That might mean that so far as suffrage should be granted all women should enjoy it alike, without saying

that it meant equal suffrage with men. And then again it did not say how far it should be granted. Our democratic caterers, and caterers they were, because I believe what they say in regard to it—undertook to make themselves solid with the Mormons—because it is notorious that the great majority of the rank and file of that party are of the Mormon faith—they undertook to outbid you republicans and to stand solid with those who were supposed to be in their ranks. Nobody had contradicted these statements on this floor, or denied that it was in this manner and for political capital that this stand on suffrage was taken. Now, with these as the uncontradicted facts in this case, you come into this Convention, where you are laying the foundation of the new State, and undertake to tell me that no matter what dangers may look up, no matter what mighty crags may be thrown up in the sea over which we are sailing, you are going to stand by those platforms, as if they contained all of God's truths. Do you know why you are going to stand by them? I will tell why you are going to stand by them. The republican members of this Convention are going to stand by them to the last inch—and you will have the pleasure of voting me into silence this afternoon on this proposition—we will be through with it, and I know now well how your votes will go—you republicans who will vote in the affirmative for woman's suffrage will do so because you are afraid that if you shrink one poor hair's breadth from the position you have announced, you will put into the hands of your democratic opponents a club with which they will belabor you next fall in the campaign, worse than the prophet belabored Balaam's ass. [Applause.]

I will tell the democrats why they refuse to budge on the question of suffrage, and that is this: if they do not stand pat upon this proposition and

vote for it to its desperate conclusion, you republicans then will have the club and they expect no mercy at your hands. Those are the conditions, gentlemen, that are operating, and would you believe it, my friend who has inherited his opinions on woman's suffrage, and of course there is no use arguing against hereditary opinions, paid me the doubtful compliment that possibly I had been selected by the democrats as a decoy duck, for the purpose of leading you republicans astray and getting you to go back on your records on this proposition and then when done, the democrats could say, "Roberts did it; the democratic party didn't do it;" and hence they will belabor you.

Another thing has been said. A gentleman whose honor could not be questioned and whose character would place his word beyond all suspicion of doubt, told me only last evening that a member upon the floor of this Convention said to him that it was his opinion that all I was doing was simply for a blind; that I had been by church authority ordained and set apart unto this work, that I was not sincere in my opposition to woman's suffrage. The studied assault of my friend from the fourth precinct, though his arrows were pointed, and though his comparisons were coarse and offensive, if one chose to look upon them so, said nothing that could so wound my feelings as the charge that I am not sincere in that which I have done upon the floor of this Convention. Of all the cowardly, of all the contemptible creatures on earth, that man is he who in such an assembly and on such an issue as this could consent to act such a part. Men ought to shun as the vilest and uncleanest thing on God's footstool, a man who could consent to do that. I am in earnest. My God! don't you see that I am terribly in earnest? It is a question of the liberties of my people among whom I have been reared. [Prolonged applause.]

I have but little more to say. I am about ready to be buried by your votes on this question. But if there is no appeal can be made to the members of this Convention, I will make one more appeal to the women of this Territory. It is within your powers to avert the dangers that threaten us; I care not if it does endanger statehood, it does endanger the future peace, it does endanger the stability of the coming State. Let in this large influx of women into the political arena, and the disgruntled party, whichever it may be, will assign ever and anon as the cause of their defeat, the interference of ecclesiastical authority with women. I know it will be the case and you know it. It means bitterness, intense strife, it means ebullitions of wrath, it means unsettled conditions in this Territory, whether it defeats statehood immediately or not. Why, we were doing famously before we began playing the tricks of politicians to gain power and votes. Men were getting together, the old struggle was being given up. Good feeling was being engendered, and now this must needs come in to disturb our peace and threaten the stability of the State whose foundations we are supposed to be laying. Therefore, in consequence of this, let me say to these women who are agitating the subject, I want to tell you and them now, in frankness, that from the great mass of women of this Territory there comes no spontaneous, heart-felt demand for woman's suffrage. I know what whips and spurs have been used to drag women into these woman's suffrage meetings in my own county. The demand is not spontaneous and widespread, notwithstanding your petitions. We all know how petitions may be brought in and piled up—such a thing is easy enough. When you bring in a petition signed by five hundred, two hundred, one hundred and fifty, the list looks long, but remember it does not to contain forty thousand names or scarcely a fraction of them. We want

to remember how numerous are the class we propose to enfranchise, some forty thousand. Now, to these ladies who are agitating this question, I say this: release these men from their obligations, since they, because of political effect, dare not do it, lest they should lose one of the tricks in the game of politics being played upon this floor. Release them, I say, and save us from this impending danger.

Oh, I thank you with all my heart for your kind attention. [Prolonged applause and cheers.]

Mr. RICHARDS. I desire before the delegate from Davis County takes his seat to ask him a question. I ask the delegate if it be true as he said that the apprehensions exist to the extent that he says they do, if there is the danger that he has stated of this great mass of people being influenced by improper motives—if all these things are true, is it not true that the people of Utah are not prepared for statehood, and is it not the course that we are taking, if it be, as he says, the course that will defeat statehood—is it not the only course that leads to honor on the part of the people of Utah, assuming that his premises are correct?

Mr. ROBERTS. Answering the question of the gentleman, I take advantage to say that perhaps in the rush of the discussion I neglected to say that the fear that there will be improper influences used in the future politics of this State is not my fear. Let that be distinctly understood. I do not for myself apprehend it. I only take this position that I do know that it exists. Not with me, but with a very large number. The fact that this gentleman on my right from Salt Lake can come here and say that by request of some 500 people he introduced a proposition that would submit the question of woman's suffrage as a separate proposition is another evidence that such fear does exist. I ask you to understand that I do not share that apprehension,

but I cannot close my eyes to the fact that it does exist, and since it does exist, the gentleman must draw his own conclusions as to whether statehood ought to be obtained in the face of it. For my single self I say that we want statehood; I would remove this pretext, I would silence this outcry, I would seek to beget confidence by frankly saying, "we will remove this obstacle—the pretext." Gentlemen do not share that opinion with me, they call it cowardly, but it makes no difference how they may stigmatize it. I believe that it would be the proper thing to do, because, the first thing that the new State of Utah wants is confidence in all classes of the people, and we can well afford to defer final action upon this proposition of woman's suffrage until conditions at last are settled; and who knows but what if the gentlemen will do proper missionary work, and if not able to convince me themselves, will introduce me as a pupil to their aunts [laughter] that possibly I too might be converted and help work for the enfranchisement of woman.

Mr. RALEIGH. Mr. Chairman, I move that the committee rise and report.

Mr. RICHARDS. Mr. Chairman, I rise to a question of personal privilege.

Mr. CHIDESTER. Mr. Chairman, I arise to a point of order. The motion that was made to go into committee of the whole was amended to read so that we might remain there until we decide this by a vote.

Mr. EVANS (Weber). Until we dispose of section one.

The CHAIRMAN. The chair understands the point of order to be well taken. That motion was passed this morning.

Mr. RICKS. Mr. Chairman, I move that the house be cleared and that the members who are outside be allowed to come to their seats.

Mr. RICHARDS. Mr. Chairman, I desire a word as a matter of personal

privilege. Having asked the gentleman from Davis a question, and that question not having been answered, lest there be some misunderstanding as to my motive in asking the question, I desire to say that if the conditions exist that the gentleman portrayed, however much the people of Utah wanted statehood, they do not want it and they cannot afford to take it by a trick and it would be dishonoring on their part to take it in such way as that.

The CHAIRMAN. The chair understands that the gentleman answered the question.

Mr. EVANS (Weber). Mr. Chairman, I would desire to move an amendment to the motion. It would create a great deal of confusion to clear the house, and I would therefore move that the chair appoint three tellers to count and announce the vote to the chair.

The CHAIRMAN. There has been nothing shown to indicate that it is necessary to call in absent members. They are supposed to be in their seats until some information to the contrary is given.

Mr. EVANS (Weber). Mr. Chairman, I desire to withdraw the motion I made, and I believe we can have unanimous consent to call the ayes and nays.

Mr. KEARNS. Mr. Chairman, I move we take a recess until two o'clock.

Seconded.

Mr. CREER. Vote the motion down.

Mr. KEARNS. And the house can be cleared then and the sergeant-at-arms can get the members in and we will have a square deal.

Mr. CHIDESTER. Mr. Chairman, I arise to a point of order, for the reason that the motion was made when we went into committee of the whole that we remain until this question was disposed of by vote.

Mr. VARIAN. Mr. Chairman, the motion was certainly carried, but as I understand it, it does not have the scope given to it. The motion as carried, as I understand it, was that the

committee should not rise until a vote was taken. A motion to take a recess does not conflict with that motion. We are not supposed in voting for that motion to contemplate the possibility of staying here all night or going without our dinners or lunch, as the case may be.

Mr. BUTTON. I ask that the motion be read. I took it just as Mr. Varian has explained it.

The CHAIRMAN. The ruling of the chair is that the session must be continuous until this question is voted on.

Mr. EICHNOR. I believe my amendment or substitute, whatever you may choose to call it, should be voted on first.

The CHAIRMAN. Yes, sir.

Mr. EICHNOR. I would ask unanimous consent of the house that after the amendment is read and the question is put we can vote on it by a rising vote.

Mr. BUTTON. Mr. Chairman, I voted to go into committee of the whole, and therefore, I move to reconsider that motion.

The CHAIRMAN. The motion to reconsider, the chair rules to be out of order at this time.

The question being taken on the substitute of Mr. Eichnor, the committee divided by a vote of 28 ayes (noes not counted.) The substitute was declared to be rejected.

Mr. RICHARDS. Mr. Chairman, I ask the result of the vote. Now one side has been given.

Mr. LAMBERT. Mr. Chairman, is another motion in order now?

Mr. RICHARDS. Mr. Chairman, I will withdraw my request.

The CHAIRMAN. The question will now recur upon the amendment offered by Mr. Kiesel to section one of the article on elections and rights of suffrage.

The substitute of Mr. Kiesel was rejected.

The CHAIRMAN. Section one, gentlemen, is now before you for further

consideration. If there are no further amendments to be offered to this section, it will pass under the rule to its third reading.

Mr. RICKS. Mr. Chairman, that disposes of the question. I move we now arise and report progress.

Mr. RICHARDS. To put it beyond doubt, I move that the first section be passed upon by this committee.

Seconded.

The CHAIRMAN. Under the rules that have been heretofore adopted by the committee, this motion is entirely unnecessary. I believe that no section in any of the articles considered has been thus voted upon separately. The chair rules that unless there are other amendments to be offered to this section, it will pass to its third reading.

Mr. LAMBERT. Mr. Chairman, I have an amendment here I want to offer for section one.

Mr. BUTTON. Mr. Chairman, I move we take a recess until two o'clock.

Mr. JAMES. Half past two, it is now almost one o'clock.

Mr. BUTTON. I accept that.

Mr. KIMBALL (Weber). Mr. Chairman, I now raise the point of order that you cannot take a recess until this article is passed on.

Mr. EVANS (Weber). That is right, we must pass upon that section before we—

The CHAIRMAN. The chair rules that unless there are other amendments to this section, it is passed to its third reading.

Mr. LAMBERT. Mr. Chairman, I have offered an amendment there. I would like to say a few words.

Mr. CANNON. Mr. Chairman, I arise to a point of order.

Mr. VARIAN. Is there a motion for a recess?

The CHAIRMAN. Yes.

Mr. VARIAN. Well, that takes precedence.

The CHAIRMAN. The gentleman

arises to a point of order. The chair was on the point of putting it.

Mr. CANNON. I did not understand the chair was going to put a motion for a recess. I understood you were considering this amendment. My point of order is upon that subject.

The CHAIRMAN. This amendment was offered after the motion to take a recess until half past two o'clock had been made.

Mr. HART. Mr. Chairman, before you put that motion, the chair ruled that it was not necessary to put to vote the question on this section. I desire to call the chair's attention to the fact that we have only passed the section where there has been no objection to it. I say, Mr. Chairman, that the question should not come up on section 1. Further, in regard to this motion to take a recess, I arise to a point of order on that as not being in order in the committee of the whole. We went into committee of the whole, Mr. Chairman, with the express understanding of disposing of section 1 before we arose. A motion to take a recess has the effect of a motion to adjourn. If not, then it is not in order while another motion is pending. The motion of Mr. Lambert of Salt Lake was before this house.

Mr. BUTTON. Mr. Chairman, I arise to a point of order. My point of order is against the point of order he is making.

The CHAIRMAN. He has not concluded his point of order.

Mr. HART. I simply desire to say that there was a motion of Mr. Lambert to amend this section. In the first place, the section that we went into committee of the whole to consider has not been disposed of, and that has not been the practice of this committee as I understand it. It was only when there was a unanimous consent or acquiescence in the proposition that was considered to be passed. I say, Mr. Chairman, that this motion to take a recess is simply in the nature of a motion to

arise. It is in the nature of adjournment and is not in order in committee of the whole unless it be considered as a motion to arise.

Mr. RICHARDS. Mr. Chairman, I insist that my motion is——

Mr. BUTTON. Mr. Chairman.

The CHAIRMAN. Mr. Button has the floor.

Mr. BUTTON. My point of order is that the chairman of this committee decided this question before the gentleman raised his point of order, and the only way he can do it is to take an appeal from the chair.

Mr. CREER. Mr. Chairman, I move an appeal from the chair on that question.

The CHAIRMAN. The position the chair takes is, that during the debate of this whole question for nearly a week, the rules have not been strictly adhered to. The chair takes this view of the question, that the purpose which was sought to be accomplished in the motion which was made this morning to dispose of this question has practically been effected, and that the motion to adjourn or take a recess until half past two o'clock is now in order.

The committee then took a recess until half past two o'clock p. m.

AFTERNOON SESSION.

The CHAIRMAN. Gentlemen, section 1 of the article on elections and rights of suffrage is before you for consideration.

Mr. RICKS. Didn't I understand we had passed section 1 this morning?

The CHAIRMAN. No, sir; there is an amendment offered by Mr. Lambert.

Mr. LAMBERT. I withdraw that amendment.

The CHAIRMAN. The amendment being withdrawn, if there are no further amendments offered to section 1, it will pass to its third reading.

Section 2 was read.

Mr. RYAN. Mr. Chairman, I will move you to amend section 2 by strik-

ing out from the fifth and sixth lines, after the word "county" in the fifth line, the words, "and in the precinct sixty days," and insert in lieu thereof, the words, "and precinct," so that the section would read, "Every citizen of the United States of the age of twenty-one years and upwards, who shall have been a citizen for ninety days, has resided in the State or Territory one year and in the county and precinct four months preceding any election, shall be entitled to vote at such election, except as herein otherwise provided."

Seconded.

Mr. RYAN. I would explain my reasons for moving my amendment, that it has been my experience in elections that the bad influence or the dishonest and irregular matter that come up in elections are from the floating vote, and that establishes a longer probation before the right to vote; I think that that provision would provide against any colonization schemes or the dishonest use of the elective franchise. That is, it would avoid the nomadic tribes as you might say, and we would have a better and fairer election.

Mr. HART. Mr. Chairman, I trust this amendment will not prevail, because in many instances I believe it would work a disfranchisement of citizens. The operation of that amendment would be simply this, that a man living within one of the political precincts of Salt Lake City would not be permitted to change his residence during a period of four months of the year, upon the penalty of being disfranchised at the coming election. I am not in favor of colonization or anything looking in that direction. The laws we have had heretofore require a residence of thirty days. The proposition as it stands increases that to sixty days, and I think this is sufficient to prohibit a man from changing his residence during a period of sixty days, and if he desires to rent a house in this locality or if he has been boarding in one region and

happens to build himself a home in a certain portion of the city, he should not be compelled to either refrain from moving into his chosen habitation or lose his right of suffrage in the coming election. I believe, Mr. Chairman, that sixty days will be a sufficient safeguard to prevent any possible scheme of colonization, but I think when you come to extend it to four months that you are going altogether too far, and it would prevent men from living in a locality that they might choose during that period of time and it would be subserving no good purpose. I trust, Mr. Chairman, that the motion will be voted down.

Mr. BOWDLE. Mr. Chairman, our campaigns here do not last over sixty days. I don't take it there is very much colonization that will take place before the candidates have been nominated. I would not wish to disfranchise any honest voter, and I can see how this would do that thing, and I am not certain that it would be much more effectual for the purpose for which the gentleman offers it than the section as it stands. I favor the section, so far as that amendment is concerned, just as it stands.

The amendment was rejected.

Sections 3 and 4 were read and passed without amendment.

Section 5 was read.

Mr. PAGE. Mr. Chairman, I move to strike out section 5. It is covered by the first three or four lines of section 2.

The motion was agreed to.

Sections, 6, 7, 8, and 9 were read and passed without amendment.

Section 10 was read.

Mr. ALLEN. Mr. Chairman, I move to strike out all of section 10.

Seconded.

Mr. ALLEN. We have made considerable on this floor about taxing people without representation. Take a man that may have come into the Territory last year and because he happens to be

one year ahead of another man to say that he may vote because he happens to be here a little before another one, and to say that a man shall not vote because he has not happened to be in the State quite soon enough. Now, we have plenty of honorable men—we can judge those that may come by those that are here. We have plenty of men that are honest and straightforward men and that pay a good tax, and to deprive men of that class from voting, it is not fair, it is not just. You take the men that will come after this Constitution is adopted from other states or territories, and if he is a man that will sell his vote for a glass of beer, he may vote simply because he can read the Constitution, and whereas a man that comes in after the adoption of the Constitution may be an honorable man—a man that pays a heavy tax—

Mr. BOYER. Mr. Chairman, I move you that Ex-mayor Gale of Springville be accorded the privilege of a seat on the floor of this house.

The CHAIRMAN. If there is no objection the gentleman will have the freedom of the house. I want to suggest that the gentleman might either be brought in quietly or else wait a few moments and not interrupt a speaker right in the midst of his debate for a question of privilege of this character.

Mr. ALLEN. As a rule I believe that the men who are educated are more apt to be men that are not living by the sweat of their brow; as a rule they are not men that linger around saloons or around cities, wishing to sell their vote. They are more apt to be out in the country at work, improving the country, making more taxable property in the country, therefore, I am in favor of striking out this section.

Mr. ENGBERG. Mr. Chairman, I am opposed to this section being a part of the Constitution for several reasons, and one is that the naturalization laws of the United States do not prescribe that condition for citizenship or for the

right to vote. It seems to me that it is good enough for the State of Utah to be as good as the general government and that it is not necessary that the State of Utah be any better to commence with. In other words, I believe that that stricture should not be imposed that will deprive many honest and worthy men from exercising the right of franchise in our State when we get that far. I do not consider that to be able to read the Constitution of the United States or to read anything is a qualification that amounts to much, although education is a worthy attainment; but we should remember that among rogues in the world, we find those the most dangerous who can read and write or who have received a very liberal education. There are many men to-day living with us who have taken out their first papers, and to that extent are citizens of the United States. At least, they may become inside of the first door. After this shall pass and we reach the point of elections in the State of Utah, those men will be shut out and disfranchised, as it were—deprived of voting upon any questions that affect or would affect their rights. Again, by adopting this section we would relegate white men below the negro, for though he can not read or write he is not denied the right to vote on that account, and I believe that it would be disgraceful for our State to be stingy and to be small in any respect. I believe that we should be liberal enough to grant many of these noble, worthy men that have labored and toiled for many years—allow them to have the right that those who have come from foreign countries and perhaps cannot read or write, but those under this section would not be deprived of the right to vote, but would retain it. Now, I claim that we should be on an equal footing. That there should not be one class of citizens humiliated below another in our State.

Mr. THURMAN. Mr. Chairman, I fa-

vored this section in the committee and am inclined to favor it now. When this bill was reported the Tribune made reference to it and stated that the object of this section was to wipe out the democratic vote. [Laughter.] Now, I will ask my colleague from Utah County if he is objecting to it on that ground. Of course, if I thought it would have that effect I would favor this amendment, but as I think that the section as it stands will not work a hardship in very many cases, and such cases as it will work a hardship in are cases where it ought to work it. Now, who is entitled to vote now or at the time of the adoption of this Constitution that will be deprived of the right of franchise by this section? It only requires them to be able to read the Constitution of the United States. It does not even require them to read it in the English language. If the person can read it in his own language that is sufficient.

Mr. EICHNOR. Is that the intent of it—that if a man can read the Constitution in his own language—Russian, for instance, it would be sufficient to give him the right to vote?

Mr. THURMAN. No; if he can read the Russian constitution, and the United States in addition to that admits him to citizenship, and he has resided here for one year, he would be admitted under this section, as it stands, but under the section as proposed, it would admit him even if he could not read the constitution of his native country or in his native language.

Mr. EICHNOR. If he could read the Constitution of the United States in his native language, which would be Russian in this case, that would be satisfactory?

Mr. THURMAN. I understand that is the way the section would be construed.

Mr. DRIVER. I would like to ask Mr. Thurman a question. Now, I am acquainted with a very eminent man who

formerly lived in Davis County, we may say the founder of a city there. He has left the Territory for a number of years, and that gentleman cannot read or write, and yet he is one of the most progressive business men that we ever had in this Territory. A man possibly that has no equal on this floor or in this whole Territory. Now, he has left Utah for a certain number of years and resided possibly in Arizona and New Mexico; he desires to change his residence, he goes back to the city that he has established, to the country he has improved and built up, and because he cannot read or write the Constitution, would he be deprived of his vote under this section?

Mr. THURMAN. That is a pretty long question. It comes very nearly partaking of the qualities of a speech right in the middle of my remarks. I wish to say this, however, that this Convention cannot possibly legislate for the friend of the gentleman from Weber County or any isolated case. Now, if there is a remarkably large class of people, such as he speaks of, or quite large, there is a foundation for it, but I maintain, Mr. Chairman, that it will affect but very few and the tendency will be to teach our boys that before they can exercise the privileges of citizens of the Territory of Utah and become voters, that they must at least learn to read sufficiently to read the Constitution of the United States. Here we propose to establish an elaborate school system to educate these young men and at the public expense, and I am looking to them more than I am to the foreigner, and the effect upon them will be good for the new State. It is intended to save every right that exists at the time of the adoption of this Constitution—impair the right of no man, but the future must take care of itself, and I think that the section ought to remain.

Mr. GOODWIN. Mr. Chairman, has not the thought crossed your mind during the last five days that there are too

many that can read now? I approve this section, except that I would give a little grace. There are a great many men in the United States who have moved here that cannot read or write. Still they have clearer heads and they have better hearts than a great many gentlemen who can read and write. The right of suffrage ought to be guided by some intelligence. But the men that make the best voters are the best judges. Patriotism has more to do in the wise judgment of the voter than all the knowledge he can get, and for the sake of worthy men who through the misfortunes of their ignorance could not obtain an education, I would like to put this off, to read that after a certain term of years, say fifteen years, no person shall have a right to vote who shall not be able to read the Constitution of the United States. A great many states are like this Territory, they are just preparing for a great educational system. There are tens of thousands of men in the United States between the ages of forty and sixty who cannot read and cannot write, and under this law if they would move here they could not vote. At the same time they can vote more intelligently than thousands of people in many of the states who can read and write. The people of this country do not understand that anything is needed to make a competent voter except an education. Education has spoiled many a good voter. That is, it has enabled him to learn to be a scholar, to learn to deride all governments, to learn to lose faith in his own government. The man whose heart is educated with his brain, the man who when his brain is in doubt is governed by his heart, and governed right, because he loves his country, makes the best voter. At the same time all the children of this country ought learn to read and write, and there ought to be a penalty held over them that they cannot exercise the right of suffrage unless they do learn to read and write, and if the com-

mittee that has this in charge will put these three words in front of the word "no," "after fifteen years from this date no person shall," I shall be glad to support it. As it is I shall have to vote against it.

Mr. CREER. Mr. Chairman, I am in favor of striking out this section for the reason that it appears to me upon its face to conflict with section 8.

(Reads section 8.)

It seems to me that if this was left in there, it would make that more or less nugatory. But upon the principle of fairness and right and justice—the gentleman says there are but very few—I think there are quite a respectable number of citizens who are unable to read and write. I have in mind one or two—one especially in our own town, of our own inhabitants, who is one of the most wealthy men of our city, most exemplary perhaps so far as morality is concerned, and not only that, but charitable; he has no children and has to pay taxes to support the children of those who have to be educated. I think it would be unfair. This is in line with the case the gentleman referred to from Weber County—there are scores of that class of people who are liable to come into our Territory and make very good citizens, who were unfortunate in their early days not to get a good education and have become more or less stereotyped in their habits. They would have to pay taxes and would be in every way qualified as voters, and yet not be allowed to vote. I am opposed to this on principle. I know it is very well to have something to encourage education. I have seen cases that were perfectly ridiculous going through the courts and getting naturalization papers. A man was asked to name some of the states, "Well," he says, "there is Idaho, Montana and Chicago," and he was admitted to citizenship. There are some things that will work an injury, but on the other hand, I think greater injury

would be done if we allowed this section to prevail. I am opposed to it because in the first place there are many good citizens who would be able to come in, and there are a great many now who would be held off by this section. I am in favor of striking it out.

Mr. RICHARDS. Mr. Chairman, I am in favor of this motion to strike out. I do not believe that this section should remain in here at all. I am a firm believer in the intelligence and patriotism of the citizens and that the welfare of the State depends upon them, but the intelligence of the citizen or the patriotism of the citizen does not always depend upon the ability of the individual to read even as much as the Constitution of the United States, and for the very reasons assigned by the gentleman from Salt Lake who favors this section with an amendment, I favor it being stricken out because I say as he says, that we are not now ready for it. It ought not to take operation and effect at the present time. I agree with him there, and I say that if the time ever comes when such a provision should be inserted the Legislature will be competent to arrive at that conclusion and provide for it. But on principle I am opposed to it. I think it is not right. I know in my own experience of men who stand at the very head of communities other than those who have been mentioned here in this presence to-day—men who stand as high in the order of intelligence, who have acquired as much wealth and who are respected in every way as much as any citizen in the commonwealth in which they live, who could not comply with this requirement and could not register and vote if they were required to read even the Constitution of the United States. I do not think it right. I do not think it right on principle. I think as I said before that human intelligence is the thing that ought to govern and control, and integrity, and not necessarily this qualification. Now one other

word. One of the gentlemen from Utah who spoke suggested that this would be a stimulus to our youth to become educated; I say that with the school system that we are inaugurating, they will need no such stimulus, they will become educated and qualified, and these cases will be very rare and very exceptional, and they certainly, it seems to me, ought not to be included.

Mr. THURMAN. You say the Legislature can provide for this in the future as it now stands?

Mr. RICHARDS. I say no, if we strike it out.

Mr. THURMAN. Well, if we strike it out, unless we put something else in the Legislature cannot under this Constitution provide for any educational qualification.

Mr. RICHARDS. Well, then, I am all the more in favor of having it stricken out, because I do not think any such thing ever should be provided.

Mr. THURMAN. You do not think it ever should be?

Mr. RICHARDS. No, I do not. As I said before under the school system we have the intelligence of the voter will be provided for.

Mr. SMITH. May I ask Mr. Thurman a question? From what states did this idea come? I was just looking over two constitutions here and I do not see any reference to it.

Mr. THURMAN. My recollection is that that is copied from the state of Wyoming. We got stuck on Wyoming on account of the first section, and we could not get away from it. Only there it is the state constitution instead of the Constitution of the United States.

Mr. HAMMOND. Mr. Chairman, being a tail end member of that important committee on suffrage and elections, I was in hopes when this first section went through that we would surely get along with the rest, for we had considered them all as I thought and given them great attention in the committee. Now, this particular sec-

tion ten, there was a number of the committee that talked harder for this clause being inserted than a naturalized citizen from Europe. Now, while I agree with Judge Goodwin, I would be tenacious about striking it off so suddenly—to give them a little probation, but I would not want it to extend to fifteen years. This friend, that my worthy friend from Weber County mentions, I know him as well as he does, and if he had spent fifteen minutes a day for a year to improve his mind in reading and writing as diligently as he has in hunting dollars, he would have been an eminent scholar. Mr. Perry once told me his brain was made that way. He said, "My head is made for financiering," and he was a success. Now, I believe I may safely take this position, that I am as old a member in this Territory or a citizen of this Territory nearly as any gentleman on this floor. I have had a vast experience in the class of emigrants that come to this country. I have labored among a large population of Scandinavians for twenty years, and I never knew one of them that could not read and write—not one of them. If I found a deadhead that could not read and write, why it was one among my own nationality; that is my experience. Therefore, I am not in favor of this amendment, unless it should be to put them on probation, say for a couple of years or such a matter, and I believe it would act as a stimulant—as an impetus, to school them in some "book larnin," as the Yankee calls it.

Mr. SQUIRES. Mr. Chairman, the gentlemen seem to have lost sight of the fact that this morning, after several days—pretty nearly a week of debate, we passed section 1, which provides that the rights of citizens of the State of Utah to vote and hold office shall not be denied or abridged on account of sex; both male and female citizens of this State shall equally enjoy all civil, political and religious rights and privileges. We

come here now to the consideration of a section which provides that this section shall not deprive any person of the right to vote who has such right at the time of the adoption of the Constitution? In other words, every ignorant or uneducated man in the Territory who has to-day the right of suffrage will have that right continued to him, but every female who comes in under our proposed Constitution will have to submit to the intelligence clause—to the educational test. Where are the eloquent advocates of equal rights to woman in regard to suffrage this afternoon? We have had plenty of them on the floor here for the last week. Why not provide that they shall be treated in this matter just exactly the same as the men of this Territory are treated? And if we are going to allow ignorant and uneducated men to vote, why shall we not allow the same privilege to women as we have guaranteed to them in the first section of the article. For my part, I come from a state where the educational test is absolutely required, and where no man can vote unless he is able not only to read, but to write, and so far as I am concerned this section would please me if it stopped in the middle of the third line—if only the first clause of that section should remain in the organic law of this State, "No person shall have the right to vote who shall not be able to read the Constitution of the United States," and I would be willing to go a step farther and require that in addition to that he should be able to write also. I do not quite agree with the gentleman from Salt Lake, Mr. Richards, on that question of intelligence. I do agree with the gentleman from San Juan, who says that if this one particular man in whose interest it is proposed to amend the constitution of a state, had given sufficient time to that subject he could probably have been a well educated citizen. A man who has the ability to acquire wealth, as this gentleman has, and found cities,

as he has, certainly has sufficient inherent power to enable him to secure an education sufficient to be able to read the Constitution of the United States at least. And besides, Mr. Chairman, just because these men that have been referred to have been able to acquire wealth is no reason why I want to waive any particular section of this Constitution in their favor. We are not legislating especially in the interests of the rich man nor of the poor man, but for all the people, and if we are going to establish, as we have started in to, such a system of public schools as have been provided for in our article that has been referred back to the committee, so that all the children of this Territory shall come up to their manhood thoroughly qualified for citizenship and for the right of suffrage to which they will be entitled, I believe we should make that test upon every citizen who is going to vote in this State hereafter. I take that broader ground that we should stop this section right in the middle of the third line and require every man who is going to vote and every woman who is going to vote in this Territory to have at least that much education that they are able to read the Constitution of the United States. I am not in favor of striking this out, but I would be in favor of striking out all but the first clause.

Mr. EVANS (Weber). Mr. Chairman, I am going to try to be consistent with myself at least on this question of suffrage, and I still say that I believe in broadening the channel and permitting as many citizens to register their votes at the polls as we consistently can. The sixth section of the article provides that all idiots, insane persons, and persons convicted of treason or crimes against the elective franchise, unless restored to civil rights, shall not be permitted to vote at any election or be eligible to hold office in this State. That is quite liberal. A person might be convicted of treason and if his rights

had been restored by a pardon he would have a right to cast his vote at the ballot box upon any election. A person may be convicted of any felony, he may be convicted of murder, burglary, or the whole list of crimes, and still be entitled to cast his vote at any election. There is another class of persons. Those who are guilty of crimes against the elective franchise, who are not entitled to vote unless they shall have been restored by pardon. All these classes of people have the right to vote at all elections under those circumstances, yet we say that if a man happens to be guilty of the crime of ignorance, he shall be excluded from voting at the polls. It has been very wisely remarked by some gentlemen upon the floor that we are more apt to find crime existing among intelligent men—those who are given to reading and writing—than we find among the more ignorant classes. I see no good reason why any man should be excluded from voting simply because he is not able to read the Constitution. How are we to ascertain that fact? I presume the registrar would have to get out a copy of the Constitution of the United States every time any person presented himself for registration and ask him to read it through. If we have any educational qualification at all, I should say that any person who is not able to read should not be permitted to vote, but I should not even favor that. I agree with my friend from Weber County (Mr. Driver), and I will answer the question of the gentleman from Utah, that Mr. Layton would not be entitled to vote in this Territory, should he return, notwithstanding the fact that he founded a city here. I know several people in our section of the country who are ignorant, who are not able to read or write, who own large property interests; they are as good and loyal citizens as those who can read and write. I would not narrow the chan-

nel of the franchise. I would broaden it, if anything, as we have done—as the sense of this Convention has shown we have done, and in respect to this class of people, I would say if they could not read or write, I would permit them nevertheless to cast their ballots at the polls. We should rather put limitations and restrictions upon men who violate the penal law, those men who are enemies to the government, those men who secure and receive the attentions of the courts, who require the State to put its hand into its public treasury to pay for the prosecution, than to say to a man simply because he is guilty of the crime of ignorance, he should not vote, when he is a peaceable, quiet, patriotic citizen. My vote will be cast in favor of striking out section 10 in its entirety.

Mr. CHIDESTER. Mr. Chairman, personally I would be in favor of an amendment to this similar to that suggested by Mr. Goodwin, lengthening the probationary period to five years, but the majority did not agree with me on that proposition and consequently it was reported as it is. Outside of that, I see no consistency in the section, except that should the right be given to the ladies of this Territory to vote, any lady who could not read would not be allowed to vote, but the majority of the committee did not agree with me on that proposition. I believe that there should be some encouragement for an educational qualification. I believe that citizenship of the United States means something, and I believe it should mean something to be a citizen of a state and that some restrictions of that kind should be placed upon it, and outside of that, why I should be in favor of the section. I would not question the propriety of putting in a probationary period as Mr. Goodwin suggested.

Mr. KIMBALL (Salt Lake). Mr. Chairman, I was about to motion to strike out this section when the other

gentleman had the floor. I was acquainted with a little child about five or six years of age that could take a book with a picture on one side and the reading on the other, and that child could read that book through, first having the story repeated to it by its mother. Now, it seems to me that any person that has the intelligence to acquire means without the education sufficient to read, could learn or commit this to memory, that is, the Constitution of the United States, by some person repeating it to them and in this way the uneducated could fool us, and I think the whole section superfluous and entirely unnecessary in this place, and while we seek to encourage education by such a means, it seems to me we are going to put the officers of the law in a position of being laughed at by some person that can commit it to memory and recite it.

Mr. CREER. Mr. Chairman, I would like to ask the gentleman a question. Of course I took it for granted the gentleman can read the Constitution. I would like to ask if he can repeat now one section of the Constitution of the United States?

Mr. THURMAN. I object, I object to that. I do not like to see a member put in an embarrassing situation here. You do not want to expose any man.

Mr. MAUGHAN. Mr. Chairman, I will tell you why I am in favor of this section being stricken out entirely. I propose to be as liberal with the citizens of this Territory and those that may assemble here, as the general government has been with us upon this floor. They simply say that all male citizens of the United States, over the age of twenty-one years, who have resided in the Territory for one year next prior to such election, are authorized to vote for and choose delegates to form a Convention in said Territory. I do not feel that I want it to return—have not put up any bars, but to be as liberal with the citizens of this Territory as

my constituency has been with me, and I hope the section will be stricken out.

Mr. THORESON. Mr. Chairman, I am in favor of striking out this section. I can imagine if this is placed in the Constitution that the ground for challenge at the polls at elections—and I just imagine one man after another being called upon to read the Constitution of the United States. Some men perhaps are able to read, but more of them are not. I think, gentlemen, as has been remarked, if we deal with each other as the general government has dealt with us, it will be good enough.

Mr. ROBINSON (Kane). Mr. Chairman, whilst I am aware of the effect that this is legislating against a certain class, the idea that I have upon it is this. The idea that confronted my colleagues in that committee was, is a person that cannot read able to use intelligently the ballot? That was the question that confronted us, and I give it here just as a suggestion that if a person cannot read they have to depend upon some one else, to tell them who they are voting for, and what they are voting for. It is a question that I think should be considered.

Mr. JAMES. Mr. Chairman, I was going to rise and make the same remarks that the gentleman has just brought before this Convention. I anticipated that was the secret of this section going into this article. Now, gentlemen of this Convention, stop and think of the proposition. We have throughout the United States, to some extent, adopted the Australian system of voting. Now, what is the result? We find that the Australian system of voting requires that a man shall read his ticket and he shall prepare his ballot. That system has given the most satisfaction probably, so far as I can learn, or the greatest amount of satisfaction of any system that has been tried in the United States. Now, in case where a man cannot read his ballot, what does he have to do? He has to

depend upon some man being put into the booth with him to prepare his ballot for him. Well, now, I submit, gentlemen, is it a proper thing that a man should exercise a right of franchise when he has to depend upon some other individual to fix his ticket and tell him what to vote?

Mr. THURMAN. Yes, and then imagine a man being put into a booth with a woman, too.

Mr. JAMES. Well, I had not thought of that, Mr. Thurman, but it is well suggested. Now, there is something else to be added to the idea of the committee in requiring of a gentleman the qualification of being able to read, and that is that he should understand the principles of the government under which he lives to intelligently cast a vote in the interests of the government which he is being supported by and living under. I suppose that is some of the other reasons why this qualification is put into this article. Now, the argument of some gentlemen on the floor that you might do some injustice, may have been well said, but it won't do any injustice to those that have acquired the right to vote at the present time. But they say he might go away from the Territory and come back and then he could not register and vote, etc. Well, now, gentlemen, I have had some experience in my life. As my friend, Mr. Hammond from San Juan County, has said, I have worked a good many men, I have had them under my employ all my lifetime by the dozens, even the hundreds, and I never have had a man under my employ that showed a disposition to acquire the knowledge of reading and writing, but that did it, and has done it, and it goes even farther than that. Mr. President, we make a good deal of sport of our Chinese laborers that have been so badly treated by the Japanese lately. I have had in my employ in the last twenty or thirty years, on this western slope, a great many Chinamen; they are the cooks in the mines, as you

all well know. We have to depend upon them. We cannot get white labor to do that cooking; I never have had a Chinaman in my employ in all that long period of time that remained in my employ a year that has not been able to make his own letters and write his orders to me when he wanted provisions for his kitchen. Now, it seems a little strange if, as Mr. Hammond has said, any gentleman cannot give a few minutes now and then to study the English or any other language and learn how to read and write, so that he can cast his vote without depending upon some one else to cast it for him. I am in favor of the article just as it stands.

Mr. HEYBOURNE. Mr. Chairman, I am disposed to favor the article as it stands. In relation to the statement, made I think by the gentleman from Cache Valley, in regard to the liberality of our government, and admitting those to citizenship—I have a faint recollection of having to pass through somewhat of a catechism before I had the right and privilege of enjoying American citizenship, and as the gentleman from Kane, Mr. Robinson, remarked, I hold that a gentleman who is so unfortunate or a lady who cannot read, they are simply machines in the hands of some person else and are liable to be swayed in their ideas in casting their ballots at an election. And if it would be in order, Mr. Chairman, I would offer an amendment to the amendment, something like this, "No person shall have the right to vote who shall not be able to read," striking out the words, "the Constitution of the United States." I think that would fix it.

Mr. SQUIRES. Mr. Chairman, I just want to call attention to one of the arguments made by the distinguished gentleman from Davis County upon the subject of woman's suffrage, as applied to this question. He laid down here the broad proposition that no class of society should be entrusted with the bal-

lot that were not independent. I ask you what independence there is of a voter who cannot read his ballot, and I am curious to know which way my friend from Davis County is going to vote on this proposition.

Mr. VARIAN. Was that amendment seconded?

Mr. ROBERTS. I second the amendment.

Mr. EICHNOR. Mr. Chairman, I wish to ask this question, and submit it particularly to the attorneys in this committee. Mr. Thurman explained a little while ago that if a person was able to read the Constitution of the United States, no matter in what language it was printed, he could vote. Now, after a little reflection, I must say that I differ with the distinguished gentleman. If you insert this clause, or insert this amendment, that no person shall have the right to vote unless he shall be able to read, I think the courts would construe that to mean the English language—the language we use in the United States?

Mr. WELLS. Why not say so, then?

Mr. EICHNOR. I am not saying on which side of the fence or on which side of the question I am.

The CHAIRMAN. The gentleman from Iron, Mr. Heybourne, moves as an amendment to the original motion, that the words in the second and third line, after the word "read," be stricken out.

Mr. VARIAN. Is not all the rest of this section stricken out by that amendment also?

Mr. HEYBOURNE. That is not the intention. Strike out all after the word "read" and up to the word "states," in the third line.

Mr. THURMAN. I desire to ask the gentleman a question. In speaking of the construction of this language by a court, would a court, where it was ambiguous or open to two or more constructions, construe the language in fa-

vor of extending the privilege or depriving a person of the privileges?

Mr. EICHNOR. The courts are generally in favor of putting a liberal construction upon it, but would not the courts hold as a general rule, that it must be the language in which we conduct our business?

Mr. THURMAN. Well, I think not; of course if there is any doubt about that, I would prefer it to be amended.

Mr. JOLLEY. Mr. Chairman, I cannot for the life of me see where that section will benefit us in the least, as people in Utah. If we knew when the last one of those that cannot read or write would die or leave the Territory, probably then I would feel like sustaining Mr. Goodwin's motion or amendment, but I cannot see and I cannot understand where it would work a great injury to individuals, if it goes through. It will deprive them of being able to vote. Now, in my acquaintance there is one lady that comes under my observation at the present time, and she is a lady that would be called such among the ladies that was with us here to-day, as an entertainer, or associate in high society, and yet her life has been a practical one, and not of reading and writing, but she has been one that has a practical life, is one that has come to this country some twenty years ago and has raised a large family, and it would be a stroke that I fear she would never get over in her feelings individually if that right was taken from her and given to all the rest of her sisters. Now, this is one instance, and there are other instances that have been referred to here, and if you can do one individual good I think we ought to do it, for I cannot see where we can do any good to parties with that section as it now reads. Therefore, I am opposed to it, and am in favor fully of the first amendment to that section.

Mr. HAMMOND. Mr. Chairman, I would simply like to ask the gentleman last on the floor if that lady that he

has in his mind's eye now is living in this Territory?

Mr. JOLLEY. Yes, sir.

Mr. HAMMOND. It does not affect her at all, as I understand it.

Mr. JOLLEY. I understand it does.

Mr. HAMMOND. Why, no, as I understand this article it does not affect the present citizens of this Territory; is not that the understanding?

Mr. EVANS (Weber). It does not affect the voters.

Mr. HAMMOND. I will take it all back. I want to call attention to the seeming cruelty of the section if it should prevail. Away back in 1843, I became acquainted with a people called the Sandwich Islanders, Hawaiians, where Queen Lil has been acting so nicely, and that nation then could not read or write. There was not a man that could, and they went to work and passed a law that no citizen should have the right to vote or to exercise the franchise unless they could both read and write, and in less than twelve years there was a nation that I had never found one after twelve years but what could read and write. I spent years of my life there among the people. [Applause.] That does not seem to me such a great hardship. If we Yankees cannot learn, and this bright Caucasian race that comes from all the world around to help us build up a State, it seems to me no great hardship for them to turn in and learn as well as the Kanakas.

Mr. WELLS. Mr. Chairman, I am surprised at the gentlemen who have stood up here and argued in favor of woman suffrage, because it would restore the franchise to a large class of people and were in favor of it, because it was a step in the direction of progress, enlightenment and intelligence, will now stand up here and oppose an educational qualification for voters. I think that if there are any citizens in this Territory who cannot read that they ought not to be allowed to vote

until they learn to read, and if an election comes around which shall deprive them of the franchise, that is, if they are not privileged to vote at the first election, or the second election, I say let them go to school and learn to read and then they will be allowed to vote.

Mr. L. LARSON. Mr. Chairman, this is a question which is of some importance. I am ready to vote on it, and I would be ready to sit down if I knew the house would vote the right way—that is, the way I want them to. Then I would not say a word, but I am certainly opposed to that section. I do not think that it affects us so far as our boys are concerned—I do not believe our friend, the gentleman from Utah County—he is raising boys to-day that will not be able to read when they are twenty-one years of age. I hope that none of us will raise boys that cannot read when they are twenty-one years of age; but it does affect a great many men that come from the old world.

And I will bring an instance to your mind that I just got to think of last Sunday. Here in this town, right in the streets, I met a man who came from Denmark. He is a very intelligent man, and can read and write in his own language and has held positions in that country, but to-day he could not read the Constitution of the United States nor anything in English, and I would certainly hope that the Convention will or the committee on this floor will consider these matters carefully, because I think you will exclude a large number of people that came to this Territory, from year to year, that are good citizens, just as honorable, just as advanced in civilization as you or I that have been here for years, and when they have come to the age of forty or fifty or sixty years, they will never learn to read the Constitution of the United States, and they will be here as it were in vassalage or in bond-

age to some extent, because they can not have the franchise. Now, I think that this would be wrong. Now, if the amendment or the amendment to the amendment—I hardly know how the question stands, if it was put in this manner to read, that the reading would include any language, then I would not care. Then I would be willing to vote on that, but for my part, I see no need of the article or of the section whatever.

Mr. GOODWIN. Mr. Chairman, would an amendment be in order now?

The CHAIRMAN. The chair understands that an amendment at the present stage would not be in order.

Mr. FARR. Mr. Chairman, I had deferred saying anything on this, but I have been unable to discern from what I have heard which way the majority will vote. I am certainly in favor of striking out that section. I am opposed and always was opposed to putting the shackles on anybody, on any person that lives, and I say if we leave that section in we are bound to place shackles on good honorable honest people. There is no person in this Territory that is more in favor of education or has done more to educate people than I have, but I am opposed to putting shackles on anybody. I want to be free and to give people freedom, and now at the close or last end to curtail and deprive some good honest man or woman of their vote—their right to the franchise, because they cannot read, I do not think it is right, and I am opposed to it. I have not any fears of anybody being deprived of their rights if we strike that out.

Mr. THOMPSON. Mr. Chairman, my ideas in regard to this matter are, that no difference if a man can read the Constitution of the United States—he is no more qualified after he reads the Constitution of the United States—that is, he is very little better prepared than if he could not read it at all, but there are plenty of educators as a rule around about the time that there is voting

done, and there are plenty of men that will inform them and tell them how to vote, and they are not on one side altogether, they are on both sides, and if they have read the Constitution of the United States, and a great deal besides, they may be puzzled then to know just exactly how to vote, and I think that many a man is converted that is a good sensible man by hearing members of each party advocate their cause and then obtain a knowledge of the candidates that are up to be elected, then I think they are prepared to vote intelligently, and I think as far as that is concerned, you can very well dispose of that section entirely, and I am opposed to the amendments as well as the original.

Mr. HEYBOURNE. Mr. Chairman, I should judge that some of the gentlemen are laboring under a misapprehension with regard to this matter. It has been inferred here by some of the gentlemen that it would deprive the older portions of the community of this right of franchise. By looking at the latter part of the section, commencing on line six, it plainly states there, "Nor to deprive any person of the right to vote who has had such right at the time of the adoption of this Constitution," etc.

Now, as I understand the provisions of this section, and the amendment that is now pending, it is simply the operations of the future, and I believe if adopted would be an incentive to those who may come on after us, that they may qualify themselves thereby, voting understandingly and making of themselves good and proper citizens.

Mr. ALLEN. Mr. Chairman, it is all very nice for men—the young men who have had fathers with money to put up for them while they went to school to sit here and talk how nice it would be to disfranchise men that have not had that privilege and have had to work all their lives. There are many men in the United States that have had to be

on the frontier and work hard to make a living from daylight to dark and put in sixteen hours out of twenty-four, and have not had an opportunity to go to school—could not go to school, and as for their taking a few minutes time as stated here and learning how to read and write, some have done it. A great many have, but others have been compelled to work continually, their fathers compelled them to work, and after they got home they were obliged to continue the work, and they have not had an opportunity to go to school, or an opportunity even to learn at home, and I do not know that we have to copy after Wyoming in everything, it looks like we will in one thing. Take some of our men that have sat at home around the fire while others have been handling a gun in defense of their country, and there are lots of them of that kind that could not read or write, and for us to deprive them of the privileges of voting equal, that is, when they are just as honorable, and in many instances are more honorable, I do not see anything just about the matter.

Mr. HEYBOURNE. May I ask the gentleman a question; would the provisions of this amendment deprive those men now of exercising the franchise?

Mr. ALLEN. Those that come in after the adoption, it would.

Mr. HEYBOURNE. I thought you were referring to men that had been unfortunate in their education in the Territory.

Mr. ALLEN. That may come here. It is bad enough to be ignorant without being punished for it.

Mr. MURDOCK (Wasatch). Mr. Chairman, I hope the motion to strike out will prevail. I think that in a few years we will have no use for a section of this kind in our Constitution. And if we have men who are not able to read and write, I should hate to hand it down to future generations to consider and to know that was the condition

that our fathers and mothers were in. Let us make as good an appearance as possible before the future generations that shall come after us, and, as the gentleman has stated, ladies will probably be granted the franchise, and if there should be any among them that are not able to read I should hate to disappoint them at all. They think they are going to have their franchise, and let us be generous. We were very generous this morning. We were willing to increase the elective franchise nearly double and we are now waging a war against a few men and possibly women that are not able to read the Constitution or the English language. I think, gentlemen, that we cannot afford to do that. We can afford to be generous with those men, and I think we have but little to fear from them, and if you will make a qualification that any man whose breath smells of liquor on election day shall not vote—or lady either, I think then, we will be making a suitable and proper qualification, because I think the man who drinks on election day is more dangerous than the man who cannot read, and for that reason I would be in favor of legislation against him, rather than against the poor man who has not had the opportunity possibly of learning to read. Undoubtedly he realizes the situation he is in more keenly than anyone, and the fact that he cannot read is more apparent and he senses it more keenly than anyone else. And I say those men will not last much longer with the ample opportunities we have for education. We will have little use for such a section. Let us say nothing about it, and do not let anyone know that such a condition ever existed in our midst.

The CHAIRMAN. The question will first come up on the amendment to the amendment offered by the gentleman from Iron County, to strike out from lines two and three the words "the Constitution of the United States."

The amendment was rejected.

The CHAIRMAN. The question now recurs on the amendment offered by the gentleman from Piute (Mr. Allen), which provides for the striking out of the whole section.

Mr. HART. Mr. Chairman, while I am in favor of striking this section out, for fear that the vote might be in the negative, and it might be that the proposition as it now stands would be agreed to, I move as an amendment, that the word "shall" and also the word "the" in the second line be stricken out, and that in lieu of the word "shall" the word "is" be inserted.

The CHAIRMAN. The chair rules that this proposed amendment would not be in order until the vote is taken.

Mr. HART. I would suggest to you that it would be well to make it as perfect as possible before striking it out, or if a proposition is to be agreed to in a certain form, it should be amended before it is agreed to in that form. I know, Mr. Chairman, that proposition was brought up the other day.

Mr. EVANS (Weber). Mr. Chairman, I arise to a point of order. I understand that the chair ruled that the amendment was not in order. If the gentleman desires to make an argument he ought to appeal from the decision of the chair.

The CHAIRMAN. The point of order is well taken.

The question being taken on the motion of Mr. Allen to strike out the section, the committee divided by a vote of 57 ayes (noes not counted); the motion was agreed to.

Mr. EVANS (Utah). Mr. Chairman, I would like to ask to be excused indefinitely on account of news that I have just received of my mother not being expected to live.

The request was granted.

Section 11 was read.

Mr. SQUIRES. Mr. Chairman, I move to strike out in line 5 of this section the words, "unless the failure to register is

caused by sickness or absence for such provision shall be made by law."

Seconded.

Mr. EVANS (Weber). Mr. Chairman, I move to strike out the entire section.

The motion of Mr. Evans was agreed to.

Section 12 was read.

Mr. EVANS (Weber). Mr. Chairman, I move to strike out section 12.

Mr. SQUIRES. Mr. Chairman, I would like to ask the gentleman from Weber the object of that motion—whether he is opposed to pure elections?

Mr. EVANS (Weber). No, sir; I am not. The gentleman from Salt Lake knows that I am in favor of the purity of elections, and I have never made an expression in my life that indicated anything to the contrary.

Mr. SQUIRES. Except this?

Mr. EVANS (Weber). The reason I ask that section 12 be stricken out is this, (reads section 12) does the gentleman from Salt Lake claim that the Legislature has not the power to do that without the Constitution providing that it may do it? We might just as well say that the Legislature has power to pass laws punishing crime. We might just as well say that the Legislature has power to do any other act. As every man knows who has read the first element of constitutional law, unless the Constitution prohibits or restricts the Legislature, that the Legislature is sovereign in itself. It is just as sovereign as this body and has just as much power as this body has, unless there is a restriction upon it, so that I say it is useless and there is no use in saying that the Legislature shall have the power to do a thing or shall do a thing which it has the power to do without saying it in the Constitution.

The motion was agreed to.

Section 13 was read.

Mr. CANNON. Mr. Chairman, I move that section 13 be stricken out.

The motion was agreed to.

Section 14 was read.

Mr. GOODWIN. Mr. Chairman, I would like to ask the chairman of the committee that prepared this section if there was any particular thought devoted in the committee to municipal elections?

Mr. CHIDESTER. I believe not.

Mr. GOODWIN. Then, I wish to move an amendment to strike out after the word "elections" in the second line, down to the word "except" in the third line, and also to add the word municipal after the word "election" in the tenth line. I want to separate the school and the municipal elections from the general elections. This is a subject that the citizens of this town feel very sensitive over, and the more they consider it the worse they feel, and they have begged me to separate the city elections from the general elections. I believe that is the rule in places where the experiment has been tried both ways. The city election and the city and county elections ought not to come together, and I hope, gentlemen, you will vote for my amendment.

Mr. VARIAN. Mr. Chairman, I quite agree with the proposition that the elections should be separated, but it seems to me that action on this whole section ought to be deferred until the Constitution is practically agreed on and then division could naturally be made in the schedule, or at least it should be delayed until we determine just when we are going to start with the elections. For instance, it has got to be considered whether there will be an election at the time this Constitution is submitted to the people. Perhaps it does not make so much difference.

Mr. GOODWIN. I believe my amendment was not seconded and I think the suggestion just made is the proper one.

Mr. EVANS (Weber). It was seconded.

Mr. VARIAN. In order to test the sense of the house, not for the purpose of killing it, but in order that it may

come up again, I move to strike out that section.

Seconded.

Mr. CHIDESTER. Is this to strike it out for good?

The CHAIRMAN. No, sir.

Mr. CHIDESTER. It can come up again?

The CHAIRMAN. I think so.

Mr. VARIAN. I will say that is my idea. After we get through with the main body of the Constitution and come to the schedule.

Mr. THURMAN. Mr. Chairman, I do not think that ought to be stricken out; it will have the effect of killing the proposition entirely. Judge Goodwin was entirely mistaken about his amendment not being seconded. It was seconded. I think the amendment ought to have prevailed here, and if, after awhile, in the compilation we want to place this provision somewhere else we can do it, but the principle contained in this section ought to be adopted, it seems to me.

Mr. VARIAN. I agree with my friend. I want to see it adopted. I will withdraw the motion to strike out temporarily.

Mr. RICHARDS. Mr. Chairman, I am in favor of Judge Goodwin's motion. I think, if after we have gone into this matter, it should be discovered from any subsequent action that any change should be made in regard to this section after we have passed it, the committee on compilation and arrangement have full authority on that measure, and therefore I am in favor of it.

Mr. EICHNOR. Mr. Chairman, I am not a politician in the true sense of the word. I have heard so much about economy, how much expense will be entailed on the people of Utah Territory by having separate elections, probably twenty-five or thirty or forty thousand dollars, just as to elect judges of the supreme court or judges of districts and school officers—

Mr. GOODWIN. May I Interrupt the gentleman? The expense of the election is in the registration, chiefly, and this does not say this shall not come in the same year or within two weeks.

Mr. EICHNOR. Is not it a fact that you must have judges of these elections?

Mr. GOODWIN. Certainly, but they do not always count.

Mr. EICHNOR. The expense of judges of elections and making returns—if I am not wrong in my calculations it entails a special expense on the people of the State of Utah of about twenty thousand dollars. Now, gentlemen, there is very little in this amendment. It is mere sentiment. When it comes down to a question of that kind, if we want to scratch a ticket we are going to scratch, and if we are going to vote politically, we will vote politically.

Mr. THURMAN. Is not it a fact that we have separate school elections now?

Mr. EICHNOR. Yes, and every time in Salt Lake City we have a partisan fight.

Mr. THURMAN. Will it take any more expense to have municipal elections at the same time?

Mr. EICHNOR. I am in favor of having them all at the same time.

Mr. GOODWIN. Changing the municipal elections does not change the expense at all. And I know, Mr. Chairman, that the taxpayers of this town as a rule do not want the general elections to come at the same time as the city elections. I believe it is so in every city that has tried the experiment.

The amendment of Mr. Goodwin was agreed to.

Section 15 was read.

The CHAIRMAN. Are there any amendments to section 15? If not, it will be passed to its third reading.

Mr. WHITNEY. Mr. Chairman, if it is not too late, I would like to suggest an amendment to section 6.

The CHAIRMAN. If there is no objection, we will hear the suggestion of the gentleman.

Mr. WHITNEY. Section 6 as it

stands would seem to imply that some idiots, some insane persons, some persons convicted of treason, or crimes, might vote. I would amend it so that it would read: "No idiots, insane persons, or persons convicted of treason or crime against the elective franchise, unless restored to civil rights, shall be permitted to vote," etc.

The amendment was agreed to.

Mr. THURMAN. Mr. Chairman, I desire to ask for information. At the time section 5 was struck out I was engaged at something else. I did not understand the reasons for striking it out, and it seems to me that it was done without consideration.

Mr. SQUIRES. Read the first part of section 2.

Mr. THURMAN. Let me call your attention, however, to the way that will be construed. The question is, do you want to empower the Legislature to confer the right to vote upon anybody but citizens of the United States? Section 2 does not say that anybody but citizens of the United States may vote, but it says that every citizen of the United States of certain age and qualifications shall vote or shall be entitled to vote. It does not say that the Legislature may not qualify others to vote who are not citizens, and the reason I ask for information is to find out whether this Convention intended to leave the power with the Legislature to permit others than citizens of the United States to vote. I know when we inserted that we not only copied the constitution that had already been duly considered and passed, but that very question was considered, that if we do not put in section 5 we would leave that in the power of the Legislature, if they want to confer it upon any person that they pleased, whether they were citizens or not.

Mr. RICKS. Mr. Chairman, is there anything before the house?

The CHAIRMAN. The chair under-

stands that there is nothing before the house.

Mr. HART. Mr. Chairman, I would like to move a reconsideration of the motion to strike out section 5.

The motion was agreed to.

The CHAIRMAN. Section 5 is now before you as though no action had been taken on it.

Mr. VARIAN. Mr. Chairman, I move when the committee arise it report the article as amended to the Convention with the recommendation that it be placed upon the calendar.

Mr. RICHARDS. Mr. Chairman, I desire to offer an amendment as an additional section to this article.

Mr. VARIAN. If Mr. Richards wants to offer an amendment I will withdraw the motion.

Mr. Richards offered the following amendment:

All citizens of the United States, over the age of twenty-one years, who have resided in Utah Territory for one year next prior to such election, are hereby authorized to vote on the ratification or rejection of this Constitution.

Mr. RICHARDS. Mr. Chairman, I find in the Enabling Act this provision:

Persons possessing the qualification entitling them to vote for delegates under this act, shall be entitled to vote on the ratification or rejection of the Constitution, under such rules or regulations as the said Convention may prescribe, not in conflict with this act.

The qualification prescribed for electors at the election for choosing delegates is as follows:

All male citizens of the United States over the age of twenty-one years who have resided in said Territory for one year next prior to such elections, are hereby authorized to vote for and choose delegates to form a Convention in said Territory.

Now, it will be seen that a person who has resided in the Territory one year, without regard to the length of time that he may have resided in the county or precinct, is entitled to vote at

this first election. Section 2 of this article provides:

Every citizen of the United States of the age of twenty-one years and upwards, who shall have been a citizen for ninety days, who has resided in the State or Territory one year, in the county four months, and in the precinct sixty days, next preceding an election, shall be entitled to vote at such election, except as herein otherwise provided.

Now, that evidently contemplates some other provision. I submit this section to comply with the requirements of the Enabling Act as to the qualifications of the electors to vote upon the Constitution—

Mr. SQUIRES. I would like to ask the gentleman from Salt Lake a question, whether that would contemplate the use of the franchise in this first election by the women of this Territory?

Mr. RICHARDS. I think that amendment contemplates that, yes, sir. It says all citizens of the United States who have resided one year, etc.

Mr. VARIAN. Mr. Chairman, it strikes me that this is a most remarkable proposition. It is remarkable in this interpretation of the Enabling Act. It is remarkable on general principles. I undertake to say that by all ordinary and known rules of interpretation and construction this Enabling Act clearly defines not only the qualifications of those who shall be entitled to vote for delegates to the Constitutional Convention, but the qualification of those who shall be permitted to vote upon, for or against the Constitution itself. The Congress has in terms described those qualifications, and nowhere in the Enabling Act, in the light of all the rules of construction and interpretation that are familiar to all lawyers, has it manifested any other intention. In section 2, Congress is dealing with the question of qualifications, that is the question before it. They are prescribed thus, "All male citizens over the age of twenty-one years," with a specified residence, are qualified electors to vote for

delegates to the Constitutional Convention. It further provides:

Persons possessing the qualifications entitling them to vote for delegates under this act shall be entitled to vote on the ratification or rejection of the Constitution, under such rules or regulations as said Convention may prescribe, not in conflict with this act.

There the whole question is disposed of, and you may formulate any qualification you please in this Constitution, and I undertake to tell you, gentlemen, that a hundred votes cast by persons not authorized under this Enabling Act at the election for this Constitution will cause your labors to come to naught. There can be no question about this. Congress described qualifications of electors who shall be permitted to vote upon this question, and, passing from it and dealing with another question entirely, it is sought to distort the language into the meaning as presented by this resolution. In section 4, where they are providing for the action of the executive and the counting of the votes, Congress used this language:

The qualified voters of said proposed State shall vote directly for or against the proposed Constitution.

What does that mean? Why, gentlemen, shall we propose to have a State and the voters, when the State shall come into the Union, who shall then be qualified under the provisions of the Constitution, are entitled to pass upon the question of the adoption of the Constitution? That is not what Congress meant at all. It means the qualified voters of the proposed State, using it in the sense of territory—area of land and population—the qualified voters of that body of persons, living within those defined boundaries as prescribed by the preceding section. That is what it means. The proposed State, gentlemen, is a certain area of land or territory, defined by specified boundaries, together with the population living or resident within those particular bound-

daries. That is the proposed State and that is the sense in which that language is used. Now this entire act simply means that those persons living within that described territory, that is within the proposed State, possessing the qualifications prescribed in section 1—namely, male citizens over the age of twenty-one years, with a specified residence—if a majority of those persons shall determine in the affirmative this question, then further proceedings are to be had, otherwise, not. It strikes me very forcibly that the gentlemen who seem to be the most anxious—more anxious than anybody for the carrying through this State Constitution and the bringing of this Territory into the Union at the beginning of next year, are blindly now attempting to throw an obstacle in the way which will be insuperable, because the President of the United States, of course, under this act of Congress is not going to issue his proclamation and admit this people into the Union as a State, unless the provisions of this act of Congress have been complied with, and they will not have been complied with if you permit persons not qualified by the act and under it to pass upon this question.

Mr. MURDOCK (Beaver). Mr. Chairman and gentlemen of the committee. It looks very absurd to me to think of bringing in another class of electors other than is provided by the Enabling Act, which provides that male citizens shall vote upon this question, and I think at once it would cut off all others. While we may feel very liberal towards any others that may have the privilege hereafter of voting, yet I think we are certainly prohibited by this act that we cannot allow any others only those that are citizens when this act is enacted.

Mr. KERR. Mr. Chairman, I move an amendment to the amendment of the gentleman from Salt Lake, by inserting the word "male" after the word "all" in the first line.

Seconded.

The CHAIRMAN. Does the gentleman think there is a necessity for any such thing?

Mr. BUTTON. I want to arise to a point of order.

Mr. SMITH. Mr. Chairman, it seems to me that this whole proposition is simply nonsense. There is the Enabling Act. It governs us in this matter, and any conditions are simply a waste of time and a waste of words.

Mr. KERR. Mr. Chairman, I do not object to the adoption of the article as amended, in order that there may be no doubt as to who shall be allowed to vote on the question of adopting or rejecting the Constitution; I am in full accord with the remarks made by the gentleman from Salt Lake (Mr. Varian). I do not believe that any except those persons as named in section 2 are qualified to vote under the provisions of the Enabling Act.

Mr. SQUIRES. Mr. Chairman, I am not in favor of this proposition of the gentleman from Salt Lake, for the reason already given. I think we should vote it down and let the committee on schedule provide an article in regard to who shall vote at the coming election. I believe it should be voted down.

Mr. THURMAN. There is where it belongs, in the schedule.

Mr. THORESON. Mr. Chairman, I just wish to make the same statement that Mr. Squires did. I do not think it belongs to this part of the Constitution at all.

Mr. ROBINSON (Kane). Mr. Chairman, I was only going to suggest that matter and add that in the nineteenth section of the Enabling Act, it provides the Constitution may by ordinance provide for the election of the State officers and for the election—for the ratification or rejection of the Constitution. That the committee on schedule has this under advisement at the

present time. And there should be a separate ordinance on that.

Mr. RICHARDS. Mr. Chairman, I desire to say in relation to this section, that the reason I had for presenting it at the present time was to call the attention of the Convention to this important matter. We have here in this second section a definition as to the qualifications of voters with an exception at the end of the section. Now, the Enabling Act prescribed certain qualifications for the electors at the first election, and it seems to me that that ought not to be lost sight of. Whether it be incorporated in this article or whether it go into the schedule it makes no difference to me. I care nothing about that, but as to whether the citizens or whether only male citizens are going to vote on this proposition, is a matter that I want this Convention to discuss. Perhaps we may have something to say upon it later. I do not know if the position is so absurd as some gentlemen think. I am not so clear that the language of this Enabling Act is so conclusive upon this question as has been suggested by the gentleman. It may be that whatever the language of the Enabling Act is or however much authority we may have, it may be wise to restrict the power to vote on this Constitution, to make citizens of the United States, who have been residents of the Territory one year. I do not say that is not so. I do not say at the present time that it is so, but I do say that it is not so clear that this convention, has not the power to make other citizens beside male citizens electors at the first election. Now, with the understanding that this matter shall be considered in the schedule, with the consent of my second, I withdraw the section, in order that this article may be reported. I will also move that this section be referred to the committee on schedule.

Mr. SQUIRES. That is not in order for this committee to refer anything.

The committee then rose and reported as follows:

Your committee of the whole having had under consideration the article on elections and rights of suffrage, beg leave to report that they have passed the said article and ask that it be placed as amended on the file for third reading.

Mr. Cannon offered the following:

Resolved, that beginning on Thursday of this week, we hold session each evening at 7:30 o'clock.

Referred to committee on rules.

The Convention then at 4:50 o'clock p. m. adjourned.

THIRTY-FIRST DAY.

WEDNESDAY, April 3, 1895.

The Convention was called to order pursuant to adjournment.

President Smith in the chair.

Prayer was offered by Chaplain Cobbs, U. S. A.

Journal of thirtieth day's session was read and approved.

Petitions and memorials.

Mr. Miller presented a petition, signed by Helen Adkin and a hundred and ninety-nine other women of Salina, Utah, in favor of prohibition. Referred to committee on schedule, future amendments and miscellaneous.

Mr. L. Larsen presented petition for submission of article on prohibition as a separate article, signed by C. N. Lund and others.

Mr. DRIVER. Mr. President, after listening to certain remarks that have been made by certain gentlemen upon this floor for the last two days, reflecting upon the courage—

The PRESIDENT. Mr. Driver, I think that would be out of order. Those questions are considered and gone by.

Mr. DRIVER. I consider that this is a personal privilege. It seems to me

that the remarks that have been made is a reflection upon my character and reputation as a man.

Mr. RICKS. Mr. President, I arise to a point of order. I think the gentleman is out of order.

Mr. DRIVER. If I am out of order, it is all right, but I want it understood that I resent these imputations; that I am here and propose to vote just as my conscience dictates to me. I feel sorry when I look around this hall—

The PRESIDENT. There is no subject—

Mr. DRIVER. —and know that there are eleven delegates from Weber County and only see one who has been willing to stand by my side.

The PRESIDENT. There is no question before the house.

Mr. EVANS (Weber). Mr. President, the gentleman has arisen to a question of personal privilege, and I maintain he has the right to state his question.

Mr. DRIVER. Mr. Chairman, I am placed in a very peculiar position. I came down here one of eleven gentlemen from Weber County to represent the people from that section of country. I find to-day that I stand alone, with the exception of one other delegate, who dared upon this floor defend the rights of his wife and mother, of my wife and mother. That gentleman cannot go back to his home, attending a meeting there, as I read in the paper, without being insulted by men who claim to represent the people of Weber County—three or four hundred men meeting together, claiming the right to represent in mass meeting twenty thousand citizens of Weber, pass resolutions that reflect on the integrity and honor of at least two members of the delegation from Weber County. Passing beyond that, the scene enacted there has no parallel in the history of political gatherings in this country, except what we witnessed here in the lobbies yesterday; and I say, gentlemen, if I have to stand alone in this

connection, I feel that there are men enough in this house who have known William Driver for the last twenty-eight or forty years to know that he is no fanatic, that while defending his own rights, he has always been ready to defend the rights of his fellow-man, and to-day he will stand and defend the rights of the women of Weber County, if he stands alone. Now, Mr. President, I want to read the effect that has been produced in Weber County by words that have been spoken upon this floor. When I left Ogden to come to attend this Convention no such spirit existed; the people there were almost unanimous as far as I had any conversation with them, in favor of what has been discussed here. Now, a change has come over them, it appears; men meet and discuss this matter, not as gentlemen, but as a mob, and I want to read one or two passages from the report of the meeting last night.

Mr. EICHNOR. Mr. President, I rise to a point of order. I want to ask the gentleman a question. Mr. Driver, do you think any delegate on this floor, no matter how he feels on this question, doubts your sincerity or honesty?

Mr. DRIVER. I want you to understand the feeling aroused in the county from which I came by words which have been uttered here, and I would be recreant to my duty if I did not resent the imputation on my courage, my integrity, and my honor, and I want to show you the kind of people that are opposing this principle in the city from whence I came. I do not recognize that a mass meeting of the citizens of Weber County has been held, and I want to show you the class of people that were there assembled, and that come here, passing a resolution condemning this whole Convention. (Reads.) I want to say that I cannot accept that. I cannot accept the interpretation of my conscience from any source, only from my own conscience, and I want it understood that I am of the same mind

to-day as I have ever been, since I came to this Convention, with regard to this matter, and I trust that I will be so, so long as I am here.

Mr. EVANS (Weber). Mr. President, I do not think the gentleman from Weber need to be disturbed about the action of the meeting on yesterday evening, because there was undoubtedly a majority of the people in that meeting who favored woman suffrage, and the friends of woman suffrage voted an adjournment of the meeting and it was only those who opposed it who remained after the meeting had been adjourned and passed these resolutions.

The third reading of the preamble and declaration of rights was proceeded with as follows:

The PRESIDENT. As I understood it, the 10th section was on the table, reported back by the committee on judiciary. The business in order is the consideration of section 10.

Mr. Evans, of Weber, offered the following substitute for section 10:

In capital cases the right of trial by jury shall remain inviolate. In courts of general jurisdiction, except in capital cases, the jury shall consist of eight jurors. In courts of inferior jurisdiction a jury shall consist of four jurors. In criminal cases the verdict shall be unanimous. In civil cases three-fourths of the jurors may find a verdict. A jury in civil cases shall be waived unless demanded.

Mr. SQUIRES. Mr. President, I understand that this section as reported back now from the judiciary committee voices its sentiment and is the action of that committee upon this proposition, and for that reason I am in favor of the substitute.

Mr. EVANS (Weber). Mr. President, I will just say to the Convention that the committee on judiciary unanimously agreed upon this section. It is not one of my making at all, but one which the judiciary committee agreed upon after reference of this section to that committee.

The substitute was adopted.

Section 22 was read.

Mr. RICHARDS. Mr. President, I move as an amendment to that section that the words, "or secured to be made to the owner thereof," be inserted in line three, between the words "made" and "and." I desire to say in support of this amendment that I have examined the constitutions of all the states of this Union and I find that this proposition only appears in a very few of them. It appears in a modified form in eight constitutions out of forty-four, and in almost everyone of those it is modified to some extent. All the other thirty-six either provide that just compensation shall be made and then stop at that declaration, or if anything further is said they put the alternative "or secured to the owner thereof or paid into court." Now, a very great hardship may be occasioned by leaving this section as it now stands, and no possible hardship, it seems to me, can result from the amendment that I propose. It would be in the power of an individual owning property on the line of a railroad or a canal, that might be in course of construction to supply a whole settlement of people with water, to demand an exorbitant price for the right of way and refuse to be reasonable. Now, you may say that it is not fair to assume that anybody will do this, but I am telling you what they may do, and that such things have been done is within the knowledge of many of us. And as was testified to before the committee of the whole when this matter was under consideration, such instances have occurred. It would be in the power of one individual to say, "I will not settle without exorbitant compensation," something that would be entirely unreasonable and the whole progress of the enterprise would have to be stopped until an adjudication could be heard in regard to that matter, and the damages assessed in court. Now, my proposition is that the words "or secured to the owner thereof," be inserted so that if a

person will not agree—if they cannot agree or do not agree upon the compensation, then under the laws that will be enacted by the Legislature proceedings for condemnation will be commenced, but before anybody can enter upon the property a bond will have to be given or the money will have to be paid into court, which will secure the owner amply as to whatever amount may be adjudged. Now, I think this is fair, and I think it is just. The suggestion was made the other day that this provision, the way it now stands, will be in the interests of the poor man. Now, it might be and it might not be. For example, suppose a settlement of poor farmers desired to obtain water from a distant source, and suppose, in order to get a right of way they had to pass over a large tract of land owned by some wealthy corporation. Suppose that corporation were to say, "You cannot have my land nor the right of way over it unless you pay an exorbitant price." A whole settlement of people could be deprived of the use of this water, could be deprived of the right to construct this canal and perhaps prevented for a whole year from getting any benefit from it or else they would have to accede to the exorbitant demand that would be made upon them. A man might charge a thousand dollars for property that was only worth a hundred and compel them by extortion to pay this money or to lose the whole season. Now, it seems to me that no possible harm or injury can come to the owners of property, if the compensation is secured to them in advance, and that is what my amendment proposes, and as I say it is in harmony with the constitutions of thirty-six states in this Union, and the eight which have provided that compensation shall be first made have modified the effect of that by prescribing summary proceedings by which these damages may be determined; and I submit, Mr. President, that this amendment ought to prevail.

Mr. EVANS (Weber). Mr. President, I desire to offer another amendment, by striking out all in section 22 after the word "compensation," in the second line, "providing property shall not be taken for public use without just compensation."

Mr. RICHARDS. I second the amendment.

Mr. EVANS (Weber.) Now, I want to give a reason for that. That is the usual method of constitution making throughout the country. I do not know of any instance where any hardship has ever accrued by reason of the fact that the additional clause has not been inserted in the constitution. There is no gentleman upon this floor who has studied the law who will deny that the Legislature has a perfect right under the section as it now stands if these words were stricken out, to make such regulations and such conditions that the property might be taken by the individual or corporation or might not be taken, without first having paid compensation for it, or the Legislature would have the right to require a bond, would have the right to require security as our legislatures have already done in this Territory.

It seems to be wholly a matter of legislation that we are inserting in the Constitution. The principle is what we want. The two lines, "providing private property shall not be taken for public use without just compensation," declare the principle. That is, that no man's property shall be taken even for public use without just compensation. Could we say any more? Do we want to go into detail in this bill of rights and determine the particular manner in which it shall be done—the particular manner in which it shall be paid for? Now, gentlemen, I am not a corporation lawyer; the fact is, all my business has been against corporations. That is, in the main, and I would do nothing at all to favor a corporation as against the individual, or anything which would op-

press the individual, but I say that through my experience in this Territory I do not know of any instances wherein the individual has been oppressed by reason of our present laws or provisions of this character. If any gentleman does, I would like to have him point it out. The reasons given by my esteemed friend from Utah County the other day were that it would compel corporations to settle with individuals by paying a fair price rather than go into court and have the expense and trouble of litigation. Now, in one sense, that might be a very admirable thought, but I say to you, gentlemen, is it right that even a corporation should be held up? I say that a corporation and an individual ought to stand upon equal footing before the law, and I say, too, that if this section passes in this way, its tendency will be to retard business enterprises in this Territory, and I say that if it passes as I suggest, it would not retard business enterprises, neither could it possibly injure the individual. Corporations would rather settle with the individual, and they usually pay a fair price, rather than to have litigation. They are not seeking litigation any more than the individual. They desire to avoid it. If they are unable to contract between themselves they resort to a court for the purpose of determining the just value of the land. But, why say in this Constitution that they shall first pay before they take possession? It might be that even a preliminary survey could not be made by a corporation, because they would not have the right to take possession, although I think the weight of authority is against that, but the law would permit individuals or corporations to make the preliminary survey over the land of others, although they would have no right to do anything at all with the land without first having made payment for it. It might be that the enterprise was not fully developed. It might be that it would require cer-

tain manipulations and negotiations in order to secure the money for the enterprise, but if men who desire to engage in business enterprises see this provision in our Constitution and see that they can not go upon an individual's land without first paying for it, would not it have a tendency to retard this progress which we all so much desire? I say that the corporation ought to secure the individual for the value of his land, but I say the Legislature has already done that and it always will do it, and if in the good judgment of the people who compose the next Legislature, they deem it necessary and proper to require payment first to be made, let them do it, but let us not put a rigid, unyielding thing of this kind in our Constitution, which is so hard to amend. Leave it as it has been left by other states. Leave it as it is left by the Constitution of the United States. That is a good model with respect to a matter of this kind, and I do not believe that any injury would result from it.

Mr. SQUIRES. Mr. President, I would like to ask that this section and the following section, 23, pass over without action for the present, and for this reason. Mr. Varian informed me on yesterday that he had been making a careful examination of this subject and he is satisfied that the action already taken on section 23 is in violation of the law of eminent domain.

The PRESIDENT. No question about it.

Mr. SQUIRES. And the proposition which he has, I presume would be to strike out one of these sections and have the two sections consolidated, and for that reason and in his absence, I would like to have the Convention pass over these two sections, or further consideration of them, for the present.

Mr. EVANS (Weber). Mr. President, I desire to say that Mr. Varian desires to be heard on the other section in regard to private property being taken

for private use. I understand he is preparing an argument on it.

Mr. SQUIRES. He might want to strike out one and amend the other.

Mr. EVANS (Weber). No; he talked to me about it.

The proposed amendment of Mr. Evans was read.

Mr. PIERCE. Are you going to put in the words, "or damaged?"

Mr. EVANS (Weber). I am willing to as far as I am concerned.

Mr. PIERCE. Well, I am in favor of the motion with those words in.

Mr. ELDREDGE. With the consent of the gentleman I would suggest it read as follows: "Private property shall not be taken or damaged for public or private use without just compensation," and leave all the balance to the Legislature.

Mr. EVANS (Weber). Section 23 provides that it shall not be taken or damaged.

Mr. KIMBALL (Weber). Mr. President, I offer this as a substitute for section 22:

Private property shall not be taken for public use, or damaged, without just compensation as determined by a jury, which shall be paid as soon as it can be ascertained and before possession is taken. No benefit which may accrue to the owner as a result of an improvement made by any private corporation shall be considered in fixing the compensation for property taken or damaged.

Mr. THURMAN. Mr. President, if any of these proposed amendments prevail, I hope it will be the last one proposed. There is something in that that has the true ring. I cannot say that I am exactly in full sympathy with it to the extent to which it goes, but, gentlemen, this is a serious question we are dealing with. There is nothing more sacred than the right of property, unless it be the right to live and enjoy your liberty. These amendments, except the last proposed by the gentleman from Weber, simply propose to thresh

over the straw again that was threshed in committee of the whole. That is right. These men have a right to do that, but in the committee of the whole the vote was, very emphatic and it was overwhelming that if this principle of the right of the public by the strong arm of the law was to be exercised to the extent of taking a man's property away from him, it is as little as the public could be expected to do to pay the owner of the property in advance. Now, to show that I do not wish enterprises to be obstructed or stubborn men to have the chance to annoy, harass, or prevent them, I do not care how summary the proceedings may be provided by law as long as it is an impartial method by which the compensation may be ascertained, but I say let it be ascertained and the party who proposes to take the property be compelled to pay for it before possession is taken. If the ordinary course of the law is too tedious and too slow and may retard private enterprises, I do not care if you make a summary method by which a jury of three men may be picked up from the neighborhood of the owner—men acquainted with the property, and let them appraise the value, and when they have appraised the value, demand that payment be made in advance or hands off. No matter who it is, no matter how grand and how mighty and how all pervading the power may be that proposes to lay its hands upon the property of the individual, I say compel it to pay for the privilege, or hands off. Has it come to pass that here in free America we attach less importance to this than they did in old England a hundred years ago? Why, if I were an eloquent man, I might repeat to you the words of Lord Chatham, spoken upon the floor of the house of commons when he says, "The poorest man in his cottage may bid defiance to all the armed forces, the wind may blow through it, the rain may enter, but the king of England cannot enter." But

here we propose to give a railroad corporation, and I speak of that, because the trouble always is with those—

Mr. JAMES. May I ask Mr. Thurman a question? Do you know in the last fifteen years in Utah Territory where the railroads have taken a piece of property from any individual and not paid for it?

Mr. THURMAN. Yes, sir.

Mr. JAMES. Would you name a case?

Mr. THURMAN. I will name the instance.

Mr. JAMES. Will you name the company and the case?

Mr. THURMAN. Yes, I will name the company; I do not suppose it will be giving away secrets.

Mr. EVANS (Weber). Without the consent of the owner, Mr. Thurman?

Mr. THURMAN. Why, of course it was without the consent of the owner. I will name an instance under the law which exists in the Territory of Utah to-day, in which a man was cited to appear in court and have the question of the necessity of taking the property determined and also appraise the value of it. That corporation had offered the man \$300 for his property. They were willing to pay him \$300 and rather than go to law he offered to take \$800 for his property, though protesting all the time that it was worth more than that. At last when we reached a jury the jury gave the man \$1500 for his property. There was this righteous corporation that my friend from Utah County referred to the other day, and this same question, when the committee of the whole overwhelmingly voted to place this measure in the article as we find it here. There was the righteous corporation exercising a power under a constitutional law. In that case it was unconstitutional.

Mr. RICHARDS. Will the gentleman from Utah permit me to ask him a question?

Mr. THURMAN. Yes, sir.

Mr. RICHARDS. If the money had been secured by a bond or the money paid into court, how would this individual have suffered, except by not having the use of the money during the pendency of the suit?

Mr. THURMAN. The exception answers the question.

Mr. RICHARDS. That is the only injury he could have suffered, is it not?

Mr. THURMAN. The exception answers the question. I may say to the gentleman, if he needs money and if he is deprived of his home he needs money to buy another. I might ask him the question which is the better, a bond or promissory note or gilt edge note payable at some indefinite time in the future, or the hard cash? We passed through a crisis in the last two or three years in which we found that there is just a little bit of difference in actual money and anybody's bond. Now, it is the principle that I protest against. Taking a man's property without his consent is bad enough. Take it without paying him in advance before the taking is an outrage and it ought not to be permitted. Now, I come back to the question to show that I am not here fighting corporations just because they are corporations. I say if you will make the principle of payment in advance before the taking, I do not care how summary the method may be if it is an impartial one by which the property may be taken. That is the point. We may provide right here that the Legislature may provide a speedy remedy so that the question will not be raised that you have got to take it in the ordinary course of law. Anything, gentlemen, but do not take men's property away from them against their consent by the strong arm of the law without paying them for it. A man may even have to litigate the bond. The men on the bond may fail. The bond may prove worthless. There are a thousand and one contingencies that may happen

that would show you in this proceeding proposed even by my friend from Salt Lake that it is not adequate in a question of this kind.

Mr. EVANS (Weber). Don't you recognize the fact that the property itself is always held as security for the payment of the land?

Mr. THURMAN. Well, let us see. Suppose it is.

Mr. EVANS (Weber). No title passes until he gets paid.

Mr. THURMAN. Mr. President, we will fall back now on railroads. Men understand railroads, and understand what they mean. We all understand it, and we comprehend about how they sometimes do business. A railroad starts in a line. It is a tangent. They do not propose to swerve to the right hand or to the left to avoid running through a little house if need be, worth four or five hundred dollars, they go right through a man's house—a thing that is liable to happen any time where a railroad is built, and always happens through a thickly settled country at some point or another. They tear this house down. They spoil the ground that it stands on for any other purpose. He is secured. The bond is not worth anything, how about the land being still security for the loss that man has sustained?

Mr. EVANS (Weber). Now, do you know of any such case as that that ever happened?

Mr. THURMAN. I say it is a case that is liable to happen at any time and in any country wherever a railroad may be built. I will ask the gentleman a question now. If a railroad starts upon a tangent in a certain direction and there is a little house—a home where a man lives, worth two or three hundred dollars, right upon the line of it, will the railroad swerve around it? If not, then it will go through it. It spoils it, it destroys it. Gentlemen, unless we can provide a summary remedy by which the compensation

may be ascertained and payment made in advance, let us pass this proposition just as it stands. Just one word as to how this has been construed. The federal Constitution has been construed to mean all that I contend for, but state constitutions in exactly the same language have been construed by some courts to mean that the legislature may do what the Utah Legislature has done. Provide a bond. Other state supreme courts have construed the same language to mean as the federal language has been construed. Just how our Constitution would be construed—if I thought it would follow the construction of the federal Constitution, then I would favor the proposition of my esteemed friend from Weber, simply leave it just as it was first written, but we know not whether it will be construed that way or not, and whether or not the precedents in those states that hold to the contrary may not be followed. For that reason, Mr. President, I favor fixing this in the Constitution so that it will be unequivocal and unambiguous, and that the right of the citizen to his property may be protected against any power whatever.

Mr. EVANS (Weber.) I want to ask Mr. Thurman a question. Under the provision, as I propose it, "private property shall not be taken or damaged for public use without just compensation," has any court anywhere in the land ever decided that the corporation can take possession of it before payment is made?

Mr. THURMAN. Yes, sir.

Mr. EVANS (Weber.) In the absence of a statute?

Mr. THURMAN. Yes, sir—no, not in the absence of a statute, but courts have held in some of the states that under that kind of a constitution the legislature may provide the very procedure that my friend from Salt Lake desires, and that is just exactly what I want to prevent if possible.

Mr. EVANS (Weber). That is true,

but under this constitutional provision private property cannot be taken can it, until paid for, unless the legislature comes to its aid?

Mr. THURMAN. I think not, but there is nothing to prevent the legislature in one view of the authorities coming to its aid and we are here to prevent the legislature from aiding such things. That is just what the bill of rights means.

Mr. MALONEY. Mr. President, I am in favor of the substitute offered by my friend from Weber County. It strikes me it meets the objections raised by Mr. Richards from Salt Lake. It does not stop the enterprises, it does not prevent progress, and I do not care how summary the proceeding may be, as soon as the compensation is determined by a jury, then let them pay for the land they take before possession is taken. "Which shall be paid as soon as it can be ascertained and before possession is taken." I maintain that that meets all the objections. And above all things in this world, I say protect the owner of this property and do not take his property and turn him out of his house and home to litigate with a railroad or any other corporation for a great number of years. It has been tried in South Dakota and it has been found to be acceptable to the people and at the same time it is sufficient protection to the railroad companies.

Mr. CREER. Mr. President, I do not think property ought to be taken until paid for. I know of instances where it has worked great injury to the citizens. Now, those of you who are aware of the location of the railroads in Utah County know that after the railroad leaves Springville, it runs diagonally across the country pretty much to the south end of the county. When the first railroad was located through there the probate court at that time assumed the whole jurisdiction and appointed a commission to value the lands; and this commission, I believe,

was a standing commission. However, they persuaded the people that it would be of great benefit to them if they would only consent to accept of the propositions that were made, and quite a number did so, but others did not, and it went into court. Subsequently there was another railroad located and they also went diagonally through a great tract of country—valuable land, and now there is another contemplated railroad going diagonally through this same country, and some individuals upon a single farm have now a contemplated third railroad cutting right through their land diagonally. Now, while it may seem that it would be wrong to obstruct enterprise, at the same time, you can see that the farm would be useless almost after it was cut and divided up into pieces of that kind by three railroads, and perhaps more might follow. And furthermore, I have in mind another condition over and above that. I had a near relative that was near and dear to me that was killed by a railroad. There was no particular wrong, however, at the time, but still she lost her life because of the close vicinity of a railroad to the domicile—to the house—she did not contemplate it and did not see the disadvantages of having a railroad so near to the house. That was a little south of American Fork.

Mr. EVANS (Weber). How would it do to require the railroad company to make compensation for the lives of the people before killing them?

Mr. CREER. I am speaking about this fact that when the matter is left to the court, in fact, that is invariably the case, they take into consideration the benefit that might accrue. Now, all the benefit that might accrue would not restore that party's life again, and all the benefits that might accrue would not justify cutting up a person's home or domicile or even their farm, and just as remarked by my colleague from Utah County, when a railroad starts out they

are going to go, no matter where it is. Supposing, now, in Salt Lake City, these railroads that run diagonally through some valuable blocks for instance—of course they have the power to do so, if they so desire, but it seems to me that there should be some check upon this matter, and I believe a greater justice would be done if they were required to pay for the land before the possession was taken. And I know of instances where they were kept out of possession for a great length of time in our neighborhood. It seems to me nothing but just and right that they should at least pay for the land before they took possession of it, therefore, I am in favor of the gentleman's substitute from Weber County.

Mr. CANNON. Mr. President, I am in favor of the motion of Mr. Evans, of Weber County, to strike out all after the word "compensation" in the second line. Mr. President and gentlemen, I have noticed this fact, that while men are opposed to railroads when they come to a consideration of this kind, every man is anxious enough to have a railroad built to his particular village or town or locality. You take the people of any county in this Territory and those people are particularly anxious that the railroad should be built to their town, but after the line is fixed, after the survey has been made, after a man finds that it is going to cut right through his land, then we always find a certain class of men who rise and want to exact an exorbitant amount. There is nothing in this section as left by Mr. Evans that does not provide for compensation. It leaves to the Legislature the matter of fixing details as to how that compensation shall be arrived at, when it shall be paid and all other matters connected therewith. It may be true, and it doubtless is true, that sometimes people have been inconvenienced by railroads, but where one man has been inconvenienced in this way hundreds of others have been ben-

effitted. There is a certain amount of benefit to any community and to any locality to have a railroad brought to it, and I think we should not hamper railroads, and as stated by the gentleman from Salt Lake, Mr. Richards, this does not apply to railroads alone. It applies to all kinds of enterprises of a public nature, and in many cases poor people have combined their efforts in order that they may accomplish something, and it is just as well that they should have this matter left to the Legislature who will be able to fix the matter properly.

Another thing is this, if we leave it to the Legislature and if they find by practical experience that the law which they enacted does not operate for the protection of the people, they can change it at any subsequent Legislature. But if we fix it here, we are then fixing it so that it requires a large vote and a great change in public sentiment before it can be changed. I am in favor of the motion of the gentleman from Weber.

Mr. HART. Mr. President, I trust that the amendment of the gentleman from Weber County to the original section will not prevail, and while I have little choice between the proposition of the gentleman from Weber County, Mr. Kimball, and the original section, yet I do prefer the proposition that the gentleman has offered in preference to section 2, for the reason that a proposition which he offers is one that has been incorporated in the constitution of another state and I believe has already been adjudicated upon, and for the further reason that section 22 is a production that was produced right here in committee of the whole by amendments from various quarters of this house, and as it now stands it is somewhat uncertain in my opinion and poorly constructed. For instance, the provision that where private property is damaged for public use the compensation is to be determined by a competent tribunal would almost give rise

to the inference that where private property is simply taken for public use that a public tribunal is not to pass upon it. I think, Mr. President, as that section stands, that there is an opportunity for the misconstruction of the true purpose that we want to reach in bringing forward this section. I do not think that it is injustice to a railroad corporation, or to any other corporation if they are taking private property, to require of them that they shall make compensation for it. I do not think that there can be much of anything in the suggestion—and I make the remarks with all due deference to the opinion of the gentleman from Salt Lake, Mr. Richards, when he claims that a provision which requires compensation to be made in advance would stop the business enterprise of the construction of a railroad or of some other enterprise. I see no reason, Mr. President, where a railroad company is being taken through a county or district of country, why compensation should not be made, and the matter of what is adequate compensation arrived at within the short period for instance of thirty days. I do not believe that this would be an injustice to any railroad company or to any corporation to require that they shall pay in advance before they take the property. Iowa, Indiana, and a number of other states have provisions that are equally as strong as the provisions that the gentleman from Weber brings forward.

Mr. RICHARDS. Did I understand you to say the state of Iowa?

Mr. HART. Yes, sir.

Mr. RICHARDS. The amendment that I offered is in the language of the state of Iowa.

Mr. HART. I did not know that the gentleman had an amendment before this house. I thought the one of Mr. Evans of Weber was the only one pending.

Mr. RICHARDS. I offered an amendment in the very language of the con-

stitution of Iowa and Mr. Evans offered as an amendment, striking out all after the word compensation, which I accepted.

Mr. HART. The constitution of Indiana on this subject—the portion of the section which refers to this matter is, “No man’s property shall be taken by law without just compensation, nor except in case of the state without just compensation first assessed and tendered.” And the provision of Iowa constitution on the same subject is, “Private property shall not be taken for public use without just compensation first being made or secured to be made to the owner thereof, as soon as the damages shall be assessed by a jury, who shall not take into consideration any advantages,” etc., being the same provision that the gentleman from Weber produces; the only difference between the Iowa constitution and the provision which the gentleman from Weber offers, is the matter of securing compensation to be given, but I take it that the provision of the Indiana constitution and of the others is a better provision in this: that it requires the money to be paid in advance without the danger of a worthless bond, and it absolutely does no injustice to any man to require him to pay the money before he takes the property.

Mr. CANNON. I want to ask Mr. Hart a question. I understood that in the case of Indiana it requires the money to be tendered, but not paid.

Mr. HART. Well, that is equal to a payment; if the man won’t take his money when you offer it to him, why every good purpose is subserved.

Mr. CANNON. He may not agree on the price. There is a great difference between allowing a man to make a tender of a fair price and making a payment.

Mr. HART. Well, it says it must be assessed or tendered in advance.

(The President here called Mr. Anderson to the chair.)

Mr. SMITH. Mr. President, I have been thinking considerably over this matter and to me it is a matter of very grave concern. The other day in committee of the whole, I remember that some of the constitutions had sections in like section 23. I became a little concerned that possibly we might do a wrong if we did not put the 23d section in, but in the consideration of this section it seems to me if we tie this up too completely and too perfectly it is going to strike back in a way that it will not only plague us but will do extreme hurt. I trust that the spirit of this Convention is that so far as it is possible we will declare in our Constitution what we want and that the legislative power shall be left with power to do some things where questions may arise of the character that present themselves here. This section to my mind as proposed to be amended by Mr. Evans is less liable in my judgment so far as I can weigh this matter, not being an attorney, the safest for all concerned. “Private property shall not be taken or damaged for public use without just compensation.” It seems to me that if we were to work a month to shape that language and to change it and fix it in every form possible we could not more perfectly shape it so that the Legislature in the exercise of its powers would deal rightly and properly with this proposition, and so far as I, myself, can weigh this language it strikes me that the safest thing for us to do in this matter is to adopt the amendment proposed by the gentleman from Weber County. We may add to it and merely insert words—we may change it to follow the various ideas and views, but we simply strike the ground of legislation when we, do it and when this has once become law, established in this bill of rights, it seems to me that it may place us in a position that it will work extreme hardship possibly to men who are in the condition that Mr. Richards mentioned, unable to meet the responsibilities that

might be required of them by wealthy people. So far as the wealthy are concerned in these matters, we recognize this fact, that they can usually take care of themselves, and these wealthy corporations can do this, but in a country such as ours where any day of the week almost there are occurring little combinations of interest—a half a dozen men perhaps to take out a water site or enter into some little business enterprise, it would be in the power of a strong corporation or of men possessed with wealth to so tie them up that it would be impossible for them to act and the reverse might be the case, so far as that is concerned, for I am not here myself upon the basis of trying to curry favor with the poor or with the wealthy. That is not the proposition. The proposition is to secure in this law a law that will be sufficiently broad and at the same time will protect the rights of all men so far as possible, and give them their day in court when the Legislature, under the enactment under this Constitution as it shall be provided, shall determine what are the rights of those individuals.

It seems to me that any attempt to reach the interests of this friend or to guard the interests of the other friend on some idea that may be engendered in our minds as affecting the other interests or this interest, will simply plague us in the future and that it will hurt the very ones that in our judgment we are seeking to guard. I trust that when the vote shall be taken upon this proposition and this section shall have been passed, it will provide that property shall not be taken for public use without just compensation, and in my judgment when that is done it amply covers the ground and our people are in less danger than they otherwise would be.

Mr. VAN HORNE. Mr. President, I am in favor of the amendment of the gentleman from Weber. It is exactly in the language of the original draft

presented to us by the committee on declaration of rights, and it seems to me it covers every possible plea that has been made on this subject. It is admitted by the gentlemen who oppose this amendment that no court has construed such language without statute passed by the Legislature in such a way that could be a hardship upon persons whose property is to be taken. Are we to say on the very beginning of the new State of Utah that we are afraid of our legislatures and the laws that they will pass, that we will presume that they will pass such laws that the court will have to construe them as doing injury to the people? It seems to me that we can safely trust the legislatures of Utah to pass only such laws on the question of eminent domain as shall be just and fair to the citizen. I am opposed as far as it is possible to avoid it, to putting legislation details and specialties into the Constitution. I believe that the language of the committee on that section now incorporated in the amendment of the gentleman from Weber is all that is necessary. It is all that is needed to protect the rights of the citizen against public use, and I am in favor of that amendment.

Mr. THORESON. Mr. President, I am in favor of this section as we have received it from the committee of the whole, or if amended at all as amended by the gentleman from Weber, Mr. Kimball. We are sent here as I take it to defend the rights of the citizen of the proposed State. We have provided for the preservation of certain rights. We have now arrived at their property rights and I am in favor of providing here that before property is taken from the private citizen for any use that he be paid a just compensation for that property. You say, "Leave it to the Legislature." This is something that we ought to fear when the rights of the citizen are set in opposition to those of corporations. Why, corporations wield a better influence and a greater influ-

ence with a smaller body than with the present one. I am in favor and I believe the citizens of the Territory of Utah demand of us that we guard their interests, guard their lives, their liberty and their property, and that we restrict the Legislature upon this very point and upon all such points. If I understand it right, that is what we are here for, and I say that a corporation or an individual—if I want anyone's property, I look upon it as honorable to first negotiate with the person and pay him a just compensation, if we can agree upon it, or submit it here to a tribunal that will decide it and then tender him his money before I take possession, and I say, gentlemen, it was our almost unanimous conviction upon this subject as expressed in committee of the whole, we then concluded, and I think we were guided by the spirit of our constituency when we almost unanimously voted that compensation must first be paid.

Mr. FARR. Mr. President, I have yielded the floor to different ones in hopes that this subject would come to a close without detaining this assemblage so long, but I am opposed to this amendment. That is, that the Legislature has full power to enact. Of course, we want to limit them and tell them how far they shall go. This section seems to be all that is necessary, "Private property shall not be taken or damaged for public use." And I see in the next section it has got private use. If that is the wish of the Convention to have that in, why not insert it here—"shall not be taken or damaged for public or private use without just compensation?" Who is going to take private property for private use without first making reparation? The man has access to the law, that will be made in the Legislature, right straight, and if we put that in it does seem to me it covers everything without lumbering up our constitutional laws with legislative matters. Why not leave it to the Legislature? They have full powers to

do it. They know what they should and should not do, and why not leave it there? What is the use of spending our time here day after day trying to legislate things that the Legislature is paid for to make laws, and then if they find that it don't work and they want to change it at the next session, they can change it; but to go to work and tie it up here, we put shackles on them and they cannot amend it. I do not want to find fault with members. I like to see them get up and express their views and knowledge upon things and give vent to their understanding, and so on; but to my mind it does not interest me at all. I want to see the Constitution broad and comprehensive and give the people all their rights they need instead of depriving them of rights as this section will do. I leave it to the Legislature.

Mr. HEYBOURNE. Mr. President, I am not here, if I understand my duty, to legislate against railroads or other corporations, nor am I here to retard any enterprise that may be established in our midst for the development of our country, yet at the same time, I think that we should have due consideration for the rights and privileges of the people and seek to protect them in every way that is possible. I understand that we are living in a country that is not thoroughly developed. That there will be great improvements made in regard to railroading and in reclaiming many hundreds of acres of land that are now lying waste, and that in this latter matter canals and reservoirs will of necessity have to be constructed that will be of vital importance to the people at large, and I have not in my mind at the present time any of these enterprises that are under way that have not got at least some pecuniary object in view, and in carrying out their projects they will of necessity have to cross over tracts of land, they will of necessity have secure places for reservoirs. In the advent of railroads

into the Territory or coming State, rights of way will have to be secured, and I think, Mr. Chairman, that the section as reported upon in the committee of the whole is that that is necessary, and that that we require. That it has a due regard and consideration for those who may invest in this enterprise, and it will reasonably recompense and protect those whose property may be taken and used for the consummation of these purposes that I have referred to. Therefore, I am in favor of the section as it now stands. That we in taking this course do not detract from the enterprises that may be introduced in the midst of the citizens here, and we offer reasonable protection to those whose lands may be taken for these enterprises.

Mr. IVINS. Mr. President, I just want to say a word in the same line of argument used by my colleague from Iron County. This section was elaborately discussed in committee of the whole. All of the ground was gone over and we concluded that as it passed that committee it was a good section, and I have seen nothing nor heard nothing here this morning that would lead me to change the opinion in regard to it. I do not regard it as legislation at all. It simply provides that compensation must first be made. It removes that question from any further discussion. It removes it from the province of the Legislature, so far as the enactment of a law by which it might be made possible for corporations to take advantage of individuals by the filing of bonds and promised compensation that would result in long drawn out lawsuits. I have instances that I recollect that have come under my own observation where railroad companies have built grades through private property. Compensation for damage done has been deferred and shortly after the railroad has become insolvent, and the man has been left with a grade through

his farm, and the privilege of levelling it down again at his own expense. All we ask is that it be plainly defined that before private property can be taken for public use compensation shall first be made, and I believe this section is a good one just as it was reported from the committee of the whole, and it seems to me that it ought not to be changed.

Mr. HOWARD. Mr. President, I think that the section as it stands now will give satisfaction, for the reason given in argument made here to-day. It has been said by some of those who are opposed to it or who are in favor of some of the amendments, that a man would have the power to ask a thousand dollars or ten thousand dollars for a piece of property that is not perhaps worth over one hundred. This does not give him the power to do that. The first part of the section reads: "Private property shall not be taken for public use without just compensation first made." Now, that does not say the man who owns this property, be he a poor man or whatever he may be, can demand just what he pleases, and the party that wants the property has got to pay the price that he asks for it. It leaves it with the Legislature to determine that. It leaves it with the Legislature to provide how and in what way this property might be assessed. And the latter part of the section reads, "And no private property shall be damaged for public use without just compensation to be determined by a competent tribunal." It looks to me, Mr. Chairman, as though that was fair. To change this section and leave it as some of these amendments suggest, it would throw this question into the courts and perhaps leave it there for years to the detriment of the poor man that owns this property that might want to be taken, whether it be by a railroad corporation or any other corporation. The amendment offered by

Mr. Kimball, from Weber, covers some of the ground that this section already reported covers, but it provides that the compensation is determined by a jury. If that should prevail, it would compel the man to go into the court. He may go to a court to get a jury, he cannot arbitrate it, he cannot settle it in any other way provided there is any trouble over it, only by going into court to get a jury. Some of the gentlemen who want this changed admit in their argument that it is good enough but they want to leave it to the Legislature. Let the Legislature provide for these things, that this section now asks for. This body of men here to-day is a larger representation of the people of the Territory than you can get in the Legislature, and if they conclude that this is good enough why let them put it in the Constitution. If it must go and it is left to the Legislature to fix how this shall be done, there is a possibility that it might be changed or left in a way that corporations would have the advantage. It is possible—we have heard of such things being done—that corporations have influenced legislation, and if this is such an important article to be considered in the interests of corporations, they certainly would take an interest in this matter when it came before a Legislature and would do all that they possibly could in their own interests to keep the Legislature from protecting the rights of the citizens, and I think that it should be left as this section now provides, that this should be determined by a competent tribunal. Let the parties when they disagree in regard to the value of a piece of property choose arbitrators if they want to, or let the court appoint a commissioner to take testimony and to present in the case if they want to, or let it go to a jury if they like; let them choose the mode, but do not compel them to go into court and take a jury. I think we should leave it the way it is.

Mr. LAMBERT. Will you allow me a question? You are living in a sparsely settled country. There are canals to be taken out in your region. Who are taking out those canals?

Mr. HOWARD. The people as a rule are taking them out.

Mr. LAMBERT. Are they not composed, as a rule, of poor men, and would not it make it a hardship if they had to put up cash for a right of way?

Mr. HOWARD. I think not.

Mr. THURMAN. How about the other fellow, is not he a poor man, too?

Mr. HART. I would ask if a private canal company has anything to do with this section? This is for public purposes, as I understand it. That would come under the following section.

Mr. LAMBERT. You can incorporate canal companies, can't you?

Mr. RICHARDS. I desire to ask the gentleman from Cache a question. I understand you to say that the taking out of water might not be a public use—the construction of a canal?

Mr. HART. I say that that probably comes under the consideration of the succeeding section—section 23, I think it is—taking private property for private uses.

Mr. RICHARDS. I ask the gentleman from Cache this question. Suppose the inhabitants of a town were to construct a canal to convey water from any source, would not that be a public use?

Mr. HART. Well, it would probably be so construed, but we have not considered it as such in framing the provision of this Constitution. We have public uses and private uses and we have placed as private use rights of way for the construction of ditches and canals. There is a doubt as to what the construction would be.

Mr. RICHARDS. I desire to ask the gentleman another question. Is it not a fact that this section 23 does not relate to that kind of a case? Is it not a fact that section 23 does not apply to the case that I suggested? Would not the

case that I speak of be a public use and would not the case where an individual or two or three individuals desired to use the property of another—would not that be the kind of a case that is reached by section 23?

Mr. HART. Well, it is possible, as I stated, that the case stated by the gentleman would come under section 22, but the restriction given by the gentleman here of three or four men taking out a ditch and going across another's land is certainly in contemplation of section 23.

Mr. LAMBERT. If they would incorporate it would come right under that section.

Mr. BOYER. Mr. President, I only arise especially to place myself straight before this Convention. The worthy gentleman from Utah County in his remarks referred to his colleague from Utah County taking opposite ground to him on the particular question before the house a few days ago. Now, when this question was up, I remember distinctly objecting to placing in this Constitution any provision that should subject any corporation to consequential damages, and that those damages should first be paid before gaining possession of the property that would be necessary for their use. That objection having been thoroughly overcome in this section, as now provided—in section 22 upon this subject. I then voted fairly and squarely for the provision in my mind as it now stands, for the amendment; and I hope that every amendment that has been offered to the substitute, as it has been offered, will not prevail, but that section 22 as it now reads may stand in this Constitution; and I desire, while on my feet, to make reference to one particular case that I now have in my mind, in furtherance of answer to the question of the gentleman from Weber County, and that is whether—I think, however, if I mistake not, it was Mr. James that asked the question—whether within the last fifteen years

any property had been taken and confiscated without first being paid for by any corporation. Now, I have in my mind one special instance that transpired in Utah County—

Mr. JAMES. May I correct the gentleman?

Mr. BOYER. Yes, sir.

Mr. JAMES. You have not quoted my question exactly right. I asked the question of Mr. Thurman, did he know of any property having been taken within the last 15 years where compensation had not been had and owners of the property had not been paid for it, and to name the property and name the corporation. I wanted to ask it for information. I wanted to know if it had been done under the law which provides that property can be taken and a bond given for the payment of the property.

Mr. BOYER. I will confine my answer to that question or endeavor to. The case that I have in mind is something like this: a corporation desired a certain piece of property and running in front of a gentleman's land in the construction of a railroad, and this individual gave a certain piece of his land, very meager though, in quantity, yet to him somewhat valuable—gave to this corporation certain property and then there was a difference still existing between the corporation and the individual. The private individual wanted a thousand dollars for his property and the railway declined to make any concession and then went away. Before taking forcible possession of this property the railway agent, conversing with the individual owner of the property, asked him whether he would take five hundred dollars for his claim. The gentleman replied, "I want one hour to consider," inferring to him that he would accept of the proposition. In the meantime, the same agency came before me and desired to enter proceeding by way of obtaining a warrant to suppress the individual from doing

damage in the event that the company should take possession of his property forcibly. I declined to issue him a warrant on any information or belief of that kind, that would so deprive the individual of his personal liberty. Consequently—I will not say consequently of that action, I will say, right along here, before the individual and the agent got together, the company itself took forcible possession, and with a score of men with ax in hand took possession of the property of the individual, chopped his forest trees, etc., down, held possession of it, and it was months afterwards before the individual got his pay and that was by the award of a jury in the district court of the first judicial district of the Territory of Utah.

Mr. EVANS (Weber). Mr. President, I desire to ask the gentleman a question. Could not a corporation do the same thing under this section as you desire to have it passed?

Mr. BOYER. Certainly not.

Mr. EVANS (Weber). That is simply a lawless act?

Mr. BOYER. I should say so.

Mr. EVANS (Weber). I could go upon anybody's property and lawlessly do the same thing.

Mr. BOYER. I have no fear of anything of this kind when we have the law emphatic. When we provide that no property shall be taken without compensation first made therefor, then we have no question about it, and he subjects himself to a double prosecution.

Mr. BOWDLE. Mr. President, in all these cases there will be individual hardships, and it is a well settled principle that the general good must first be subserved, even if an individual occasionally does have to suffer. I do not believe in taking any man's property without just compensation, but as we stand here to-day, we cannot see exactly what will be the future in all its bearings on this subject, and all that I

have heard said with reference to this section and urging against the amendment of the gentleman from Weber (Mr. Evans), is casting a doubt upon the wisdom and the ability of the future Legislatures to take care of this matter. Under the amendment as offered by Mr. Evans, and which I most certainly favor, the Legislature can take ample care of this whole subject. They will have the power to pass any law that they may see fit regarding the manner in which the compensation shall be made. They can say it shall be made before the property is taken. They will come up from the people; they will be persons that will be representing the people, and I take it, not the corporations, and it seems to me that we can safely leave that to them when we say that no property can be taken or damaged without just compensation. That covers the whole ground. The only difference is that some say it must be paid in advance or there must be a bond given. That is all. Those are the only things upon which they differ. We must not lose sight of the fact that we want this Territory developed, and while we must take care of our citizens and protect them in their property rights and in their homes and all that, we must not at the same time make such a Constitution here as will discourage private enterprise and proper development of this country. Now, if we put this in as the gentleman has by the substitute offered, that fixes it for all time to come. The Legislature at its first session may do that very same thing that is here proposed by this substitute. There might come up such a circumstance or such a complication of circumstances that the Legislature in its wisdom would say that it was not a good thing. The Legislature could remove that, but as we fix it here the Legislature can do nothing at all in the matter. They are compelled to leave it just as we fix it here, and I am in favor of leaving it with the Legislature

when we say that you shall not take the property without you make compensation for it—I believe we can safely leave to the Legislature the question of how and when that compensation shall be made, and I am in favor of the substitute and leaving it just as that will leave it, and then the Legislature can adopt the ways and the means which will be eminently within their province by which this can be done.

Mr. MURDOCK (Beaver). Mr. President, as I regard it, we are in the interests of all parties. That is not only those that may constitute a corporation, but individuals and all there is of a corporation, they are just simply a little larger "feller" than the individual. That is all there is of a corporation. They represent a company, and they should be treated as an individual, and if it is right to take the property of individuals for a public purpose, which all corporations is more or less regarded as a public enterprise, that is instituted to what? To develop the country, making roads, railroads, to make canals, or reservoirs, and all these things, and it is very possible that directly an individual may be injured but indirectly he may be greatly benefitted by that enterprise whatever it may be. He may be greatly benefitted and we are here to not only look after the individual, but we are here to look after what? Men who are enterprising, men of means, men who are desirous to make perhaps money for themselves. That is their main object, is to make money for themselves, and while they are making money for themselves, they are making money for the individual. We are dependent upon enterprising men, we are dependent upon men who will bring their means into the country, and we do not wish in any wise to hedge up and hinder their progress. We have only commenced—

Mr. THORESON. Will the gentleman allow me a question?

Mr. MURDOCK (Beaver). Yes, sir.

Mr. THORESON. Would that hedge up the way of any citizen or corporation by just saying, "if you want private property you must pay for it."

Mr. MURDOCK (Beaver). I am not arguing against a man's private property being properly—

Mr. EVANS (Weber). That is what the section does say, "If you want private property you must pay for it."

Mr. MURDOCK (Beaver). Yes, sir, I fully endorse the section and the very most I think is necessary is the amendment of Mr. Evans from Weber County. We do not want to make the matter so stringent that men of enterprise will feel discouraged. I believe in giving them a chance to bring forward any enterprise that will be beneficial to the public. I do not believe in being so particular. While I desire to have individual interests guarded and well guarded, and we are not here to legislate, gentlemen, I believe that we are here simply to make a boundary that will surround and protect future legislation, and we do not want to legislate in all these particulars in a detailed condition, which I see are many, if it is in bills that are brought here, that to my mind is a great deal too much legislation. I think we should leave these matters. I have confidence in the men that will represent the people here in the future in the Legislature. Let them have as much at stake as we will here.

Mr. HAMMOND. Mr. President—

The PRESIDENT. Mr. Hammond.

Mr. RICKS. Mr. President, I move the previous question.

Mr. VARIAN. I hope that won't prevail. I protest against it.

Mr. ROBERTS. I sincerely hope it will not prevail.

The PRESIDENT. I had already acknowledged Mr. Hammond before Mr. Ricks had presented his motion.

Mr. HAMMOND. I am now getting tired. I do not purpose to detain you, gentlemen. It has been well said that this is a very important question that

we are debating. I have had some experience; I am not a lawyer nor the son of a lawyer, but I have my thoughts and convictions. A long resident of this Territory, saw a great many acts of corporations, I am utterly opposed and ever have been for any individual or corporation of any character jumping down onto my land without my having a voice in saying—at least preventing me from having any voice in the act. The government which I love, our great and good government, with Grover Cleveland at the head—I am not good on dates, but I think in the year 1888 there was a commission sent out to make a trade with the Southern Ute Indians, and it placed them over into San Juan County. The secretary, a very able gentleman—a clergyman of great repute and high standing, was the secretary, and they rode about our country up and down for four months until they expended every last cent of the appropriation, I think it was ten thousand dollars, before ever they returned a report at all, and finally by paying the chiefs over two hundred and fifty dollars—five hundred dollars possibly, they got their names to a treaty to give up their present reservation and placed them over in Utah, and this secretary wrote to me afterwards asking me to follow with a report or an estimate of the settlers' claims—the value of our claims there? \$30,000 was embodied in the bill to pay settlers for their thirteen years of hard labor there. In connection with some other gentlemen we got together and submitted an appraisal of the valuation of our claims there exceeding \$100,000, and afterwards, I went to Washington on that very thing to keep every—inasmuch as we were bound to be ousted, and I submitted it to the committee, that they embody in the bill \$200,000 more or less, to pay the settlers for their labor and claims there. Why we had one canal that cost the people \$96,000, that this high toned commission was going to allow us \$30,000 for

all our land, land claims, and water rights. Now, I am opposed to this, whether it is the government, or whether it is corporations, private or municipal, to squat down onto me or on my people without giving us a chance to have some voice in the bargain—two sides to a bargain, hence, as I seconded this amendment, I am heartily in favor of it.

Mr. VARIAN. Mr. President, I want to suggest to my friends on the right that they must not be impatient; the discussion of these matters is long sometimes and some of us have not the opportunities of being in at the beginning when the work is done and hearing the discussion and the talk before the committee. I must talk on this question, and particularly the matter concerned in the 23rd section. It may be that if the views I entertain shall meet with consideration at the hands of the Convention, the Convention may desire to add something more to section 22, the one under consideration now. In the view I take of it, it does not make very much difference whether you put in the Constitution a provision that compensation shall be paid for private property taken for public uses, because otherwise you could not take it. That is a fundamental proposition. I lay it down now. You cannot take private property for a public use without paying for it. The second proposition is you cannot take private property for private uses at all, whether you put it in your Constitution or not. The section as it stands perhaps is not objectionable unless it be in the provision regarding compensation to be first made. We went over all that ground the other day and I had supposed that the Convention had finally and definitely concluded upon that subject. So far as I am concerned, I do not care to discuss that question. I find in my mind at least serious objection, however, to a portion of the amendment, offered I believe

by the gentleman from Weber, Mr. Kimball, which, as I remember it, expressly provides that benefits accruing to the owner of the condemned property shall not be taken into consideration in the award of compensation. I do not believe that is right. I have serious doubts whether it could be maintained. Perhaps, however, that being for the benefit of the citizen, might not present a serious question. It is wrong in principle anyhow. Under such a provision as that any municipality in opening a street in a city, increasing the value of the property immensely perhaps—for the sake of illustration, we will say, a hundred per cent—why should the city be compelled to pay the price for the land taken for this great public purpose, which not only results beneficially for the general community at large—the entire city, but absolutely puts money into the adjoining property owners' pockets? It does seem to me that such a proposition as that ought not to be considered. It is not alone a question of railroads or quasi public corporations. This great question of eminent domain includes a vast variety of matters. It is founded on fundamental principles, underlying which, all the time, as it is the corner stone, is the right of private property. I object, therefore, so far as I am concerned, to that amendment, and I understand that there is another amendment by the gentleman from Weber, which, if adopted, would simply leave the first two or three lines, I believe, in the section.

The amendment offered by Mr. Evans, of Weber, was read.

Mr. VARIAN. It leaves it "first being made."

Mr. EVANS (Weber). Yes, sir.

Mr. VARIAN. Now, gentlemen, this is a matter of popular—a matter which you will decide without reference to law, because it is a matter that can be determined. It is a legislative question. I do not care to discuss that. I do

want, however, to discuss matters arising particularly because of the 23rd section, and while we have not reached that yet, still as I said before, it is intimately connected with the 22nd section, and with the general subject, and it may be that you will want to make some further declaration as to what public uses are. If I shall be able to convince you as I have convinced myself since this matter was before the committee of the whole, that all these matters and declarations in the 23rd section are absolutely in violation of the 14th amendment to the Constitution of the United States—

Mr. BUTTON. Would not you prefer to take a recess and argue that afterwards?

Mr. VARIAN. I very much prefer it. I wanted to bring a volume or two here to illustrate.

Mr. EVANS (Weber). Mr. Varian, I desire to ask you a question. Would it not be better for you to make your argument on that subject when we reach it? We are simply determining this question now of taking private property for public uses.

Mr. VARIAN. Well, I have concluded to pitch right in here.

Mr. EVANS (Weber). I thought that might confuse both sections. I simply want to settle this question about what we will do, that is all. I simply want to ask you whether it would not be a better order if you had no amendment of this section to dispose of section 22 and then go to section 23.

Mr. VARIAN. No, Mr. President, the view I take of it, the two sections should properly be considered together. And as I am advised, it might be necessary to present some additional amendment to section 22, which cannot be done without considering at least by way of argument the effect of section 23.

The Convention then took a recess until 2 o'clock p. m.

AFTERNOON SESSION.

Mr. KIMBALL (Weber). Mr. President, I do not desire to make a speech at this time on my substitute for the section that is now under consideration and all the amendments, but I do desire this, as the gentleman from Salt Lake, Mr. Varian, has the floor, to correct him in one thing that he mentioned this morning. If you read my substitute, it obviates the objection the gentleman raised. I do not refer in that clause of the substitute that refers to the non-allowance of benefits to public corporations, and I simply want to call his attention to that matter now, so that he may not be misled in his argument that he may make hereafter in regard to that matter, and if the gentleman reads it himself, he will observe that it is restricted to private corporations, not municipal corporations, or any other public corporations.

Mr. VARIAN. Mr. President, as intimated before the recess, the matters embraced in section 23 are intimately connected with the subject matter of section 22. It is impossible, I think, to intelligently discuss the whole underlying principle which ought to be and must be, I submit to you gentlemen here, discussed and understood before you can afford to pass on either one of these propositions. The matter has been considered, Mr. President, at some length in the committee of the whole. I believed then as I believe now that in the general desire to accomplish an admitted good for the people of the new State and to enable them to develop its resources, the great fundamental principle underlying this entire doctrine was overlooked, or if not, was passed by too hastily. It was assumed that the people in this Constitutional Convention assembled had complete and full power to even disturb vested rights, to invade the sanctity of the private ownership of property, and by a simple ipse dixit—a declaration to make of a private use a public use. Now, I submit in the begin-

ning that that theory is in violation of the principles upon which this government rests; it is the right of eminent domain which we are considering and it is well to pause a moment and understand and admit what that right and power are. It is the power inherent in all governments, whether you declare it in your Constitution or leave it out, based upon the principle that the public safety is the supreme law, predicated upon a law of necessity, which authorizes the entire people, through the medium of their common government, to reach out the hand and take the property of the citizen, because it is deemed necessary to advance the interests of the state. That is the principle underlying it. It is well expressed by the supreme court of the United States, speaking through Mr. Justice Field, in the following language:

The power to take private property for public uses, generally termed the right of eminent domain, belongs to every independent government. It is an incident of sovereignty, and as said in *Boone versus Patterson*, requires no constitutional recognition. The provision found in the fifth amendment to the federal Constitution, and in the constitutions of the several states, for just compensation for the property taken, is merely a limitation upon the use of the power.

I start with the proposition then (and it is necessary to consider this from the beginning in order to emphasize and point what I have hereafter to say), that it needs no declaration in your Constitution to give your Legislature this right. While I will admit it is usual to put it there, and it is found in all the constitutions (generally for the purpose, however, of connecting with the declaration a limitation upon the right relative to the compensation to be awarded when it is exercised), if it is not there it still exists in the government of the new State as a very part and parcel of its sovereignty. You will observe that you do not have to declare the fact, which of necessity belongs to all gov-

ernments, that you may take private property for a public use. If you do declare it, it is well to limit it and modify it to this extent, that when you shall do so, you must make just compensation. It is possible we may admit, in the absence, at least without reference now to the higher law as embodied in the 14th amendment to the Constitution of the United States, that the whole people in constitutional convention assembled might enact an act of confiscation, which that would be, if compensation was not provided; but we must also admit that it would be so foreign to the entire temper and disposition of the people of the United States, that it could not be maintained; public sentiment would not maintain it, and it is at least questionable at this time whether the courts themselves would not override the constitutional enactment, upon the ground that it was contrary to all natural law and an interference with vested rights that the present age would not permit.

The second proposition, intimately connected with this, is that after all, under your system, however you may curtail it and modify and express it, in your constitutional enactment, it is upon the judiciary that the weight of determination must fall. It is impossible for any American citizen to admit for a moment that the power lies anywhere in a legislative body or in the people themselves to invade the ownership of private property to the extent that it may be taken, even for public use, without compensation; and of course that principle is always accompanied with another, that in cases of supreme necessity, when the laws are silent, when the necessities of the entire community require different action, it is not applicable then. As an instance it may be illustrated in cases of great conflagrations and calamities of that kind, which have overtaken and may be expected to overtake large commu-

nities; when a great fire eats away and destroys cities, the government may step in on such occasions and may arrest the progress of the flames, or attempt to do so, by destroying private property, for the benefit of the public, and unless there is a statute providing for it, no man is liable and no compensation need be made. But, we are not dealing with exceptional cases, we are dealing with the general principles, and I want to start right from that broad foundation, upon which I stand, and I affirm these propositions: First, that the right of eminent domain is inherent in all governments and needs no constitutional declaration. Second, that since the 14th amendment to this Constitution of the United States was adopted, no state can take the property of the citizen for a public use, without compensation. Third, that no state can take the property of the private citizen for a private use under any circumstances or at all. Fourth, that of necessity the question of public use must finally be determined by the courts; that the simple declaration in your Constitution or in your legislative enactment, that the use of property in a certain way shall be deemed a public use, is not conclusive. This is a question of necessity, a shifting one. It depends upon different conditions, different circumstances, which overtake a people from time to time as the years go by. What may be deemed a public use in one locality, under certain conditions, with certain circumstances surrounding its people, would absolutely be deemed the contrary under other circumstances and under other conditions. So that, of necessity it is always a question, as we term it, not alone of law, but a mixed question of law and facts. The facts must be ascertained, the conditions must be ascertained, the circumstances must be known, the purpose and objects of the proposed act must be defined, in order that the ap-

plication of the law to such conditions and such facts may be made by the proper tribunal.

Now, if I have made no mistake in that (and I don't think I have), we are ready to proceed in the line to the consideration of the next matter. We start, you will remember, with the understanding that we do not need, first, to make any declaration in this Constitution at all. We are all agreed that as it is usual and customary to do so, it is better to do so, perhaps. We are all agreed that we ought, in accordance with the times, with our system of government and with our ideas concerning the protection of property and the rights of the individual, also couple with the declaration a limitation, as it were, upon its exercise; that is to say whether we shall put in there that it shall not be taken without just compensation. But, now we are confronted with the further proposition, that we are to declare here, not alone what shall be public uses, if we come to condemn, but we have gone further and attempted to say what shall be deemed private uses; or, to reverse the statement, we have attempted to declare that in certain classes of cases, for some certain specific purposes, the property of the private citizen may be transferred from him to his neighbor; and I undertake to say that it is in violation of the Constitution of the United States, as it is in violation of all our understanding of vested rights; that it is confiscation and spoliation, in principle and in fact, as it is presented here in this declaration. Why, the very object of this government, the primary object, is the protection of life, liberty, and property. Property stands upon the same plane with life and liberty. It is simply, as it is affirmed in the opening statement of this very preamble and declaration of rights, a reaffirmation of what has always been in this country and in England since the days of magna charta. The language is changed a

little, but the equivalent is there, and the meaning is the same, and none other.

It will take no longer, as a part of what I have to say, to incorporate in my language what is said by others upon this question, law writers, and judges. Following this, of course, it is apparent, Mr. President, that a constitution is not beginning of government. Government existed before the constitution. It is not the origin of all these rights, or privileges if you please, that are affirmed and declared in it and are protected in it or by it. Mr. Cooley says:

In considering state constitutions, we must not commit the mistake of supposing that because individual rights are guarded and protected by them, they must also be considered as owing their origin to them. These instruments measure the power of the rulers, but they do not measure the rights of the government. What is a constitution and what are its objects? It is easier to tell what it is not than what it is. It is not the beginning of a community nor the origin of private rights. It is not the fountain of law nor the incipient state of government. It is not the cause, but consequence, of personal and political freedom. It grants no rights to the people, but is the creature of their power, the instrument of their convenience, designed for their protection, in the acknowledgment of the rights and powers which they possessed before the constitution was made. It is but the framework of the political government and necessarily based upon the pre-existing conditions of laws, rights, habits, and modes of thought. There is nothing primitive in it. It is all derived from a known source. It pre-supposes an organized society, law, order, property, personal freedom and love of political liberty, and enough of cultivated intelligence to know how to guard it against the encroachments of tyranny.

Mr. Justice Storey,^s speaking for the supreme court of the United States, has said:

Fundamental maxims of a free government seem to require that the rights of personal liberty and private property should be held sacred. The language of magna charta in substance was, no freeman shall be taken or im-

prisoned or be disseized of his freehold, etc., but by the lawful judgment of his peers or by the law of the land.

By "the law of the land" is meant the due course and process of law, and that has been affirmed of necessity, as it appears by the people of the United States when they adopted the 14th amendment to the Constitution. The 5th amendment covered the same subjects but it only applied to Congress. It never applied to the state, and it was not until in latter days that the people of the United States engrafted upon their organic law that prohibition reaffirming the prohibition of the 5th amendment, making it specially applicable to the states in this Union. Let me read you the language particularly applicable here:

No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any state deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the law.

That provision until of late has been substantially the constitutional provision of every state; but within the last few years, notably in those states that have just come into the Union, Washington, Wyoming, and one or two others, they have gone outside of that and have adopted provisions which we find embraced within section 22 of this proposed preamble and declaration of rights for the State of Utah. The construction and interpretation of this language of this constitutional guaranty everywhere have been that you cannot, under it, take private property for private uses. By no specious reasoning has it ever been permitted to any legislature to evade that guaranty where it existed, and the fact that that is so is made apparent by the action of these constitutional conventions of late years. They have sought to limit, to modify, to get outside of this constitutional guaranty, and they have overlooked the

fact that behind that and above that there is a higher law, organic as to these states, before which they must all yield and to which they must all concede—the Constitution of the United States, as amended by the 14th amendment. To that extent the construction put upon those several constitutions by the state courts is applicable to this same language which is incorporated in the Constitution of the United States. It all turns and depends upon what "due process of law" means—what "the law of the land" means, to be interpreted and understood in the light of the general principles affecting human liberty and the rights of property in this American republic. A great judge, speaking for the supreme court of New York, says:

Due process of law undoubtedly means, in the due course of legal proceedings according to those rules and forms which have been established for the protection of private right.

And Mr. Justice Johnson, speaking for the supreme court of the United States, at an early day, said:

As to the words from magna charta, incorporated in the constitution of Maryland, after volumes spoken and written with a view to their exposition, the good sense of mankind has at length settled down to this, that they were intended to secure the individuals from the arbitrary exercise of the power of government, unrestrained by the established principles of private rights and distributive justice.

And Mr. Justice Sharswood, one of those great justices of the olden time, whose judicial life and history shine out and emblazon the pages of jurisprudence in this country, speaking for the supreme court of Pennsylvania, said:

If, however, an act of assembly, whether general or special, public or private, operates retrospectively to take what is by existing law the property of one man and without his consent transfer it to another, with or without compensation, it is in violation of that clause in the bill of rights which declares that no man can be deprived

of his life, liberty, or property, unless by the judgment of his peers, or the law of the land. By "the law of the land" is meant, not the arbitrary edict of any body of men, not an act of assembly, though it may have all the outward forms of a law, but due process of law by which either what one alleges to be his property is adjudged not to be his, or it is forfeited upon his conviction by his peers of some crime for which by law it was subject to forfeiture, when the crime was committed. If this be not so, every restriction upon legislative authority would be a vain formula of words without life or force. For what more can the citizen suffer than to be taken, imprisoned, disseized of his freehold, etc., and be deprived of his property without crime?

And in the sinking fund cases, Chief Justice Waite, speaking for the supreme court of the United States, uses this language:

The United States cannot any more than a state interfere with private rights except for legitimate governmental purposes.

And Mr. Cooley again says:

But there is no rule or principle known to our system under which private property can be taken from one person and transferred to another for the private use and benefit of such other person, whether by general law or by special enactment. The purpose must be public, and must have reference to the needs or conveniences of the public. No reason of general public policy will be sufficient, it seems, to validate such transfers when they operate upon existing vested rights.

And again, the supreme court of New York on the same subject say:

An act to take private property for a purpose not of a public nature, is to take the property of one and give it or sell it, which is the same thing in principle, to another, would be a gross abuse and fraudulent attack upon private rights.

Justice Nelson, in that great state, sitting as a member of the court, when it was a great court, as it is now, perhaps:

It is now considered a universal and fundamental proposition in every well regulated and properly administered

government, whether embodied in constitutional form or not, that private property cannot be taken for strictly private purposes at all.

Mr. CREER. I would like to ask the gentleman a question upon this point he is on now. May I ask you if that authority, taken from New York—why is it then it makes no provision by general laws that private property may be taken for private use?

Mr. VARIAN. I am endeavoring to show and I have shown that the same principle which has hitherto prevailed in all the constitutions has latterly been incorporated in the same language in the Constitution of the United States. I am simply alluding now to the interpretation of that language by the state courts as to what it means in the Constitution of the United States.

In a late case in the supreme court of the United States, Mr. Justice Brown, speaking for the court, says:

Upon the other hand, it is probably true that it is beyond the competency of the state to appropriate to itself the property of individuals for the sole purpose of creating a water power to be leased for manufacturing purposes. This would be a case of taking the property of one man for the benefit of another, which is not a constitutional exercise of the right of eminent domain.

Mr. THURMAN. I would like to ask the gentleman one question. I am in sympathy with the gentleman on this question entirely, but the query in my mind is, how this discussion comes in to this matter as it now stands?

Mr. VARIAN. If the gentleman will allow me to lay my premises, I will endeavor to explain how it affects the discussion of section 22. I was going to read from the report of the supreme court of Illinois. I will not pause for that purpose now.

Now, these are the premises that I lay down, if I can make myself clear. Of course it is a lawyer's argument, and it would not be justified in a body like this under other circumstances. It is a matter, as I shall suggest hereafter,

which ought to be discussed and settled or at least investigated by a committee. The proper committee here would be the committee on federal relations, but without any disrespect to those gentlemen, they are not lawyers, any of them, I believe, and this is peculiarly a matter for lawyers, as is quite apparent. Now, these are the premises: First, that it does not lie within the power of our government, whether acting through the medium of a constitutional convention or a legislature, to take the property of one citizen and transfer it to another for a purely private use. It is within the power of our government, in cases of public necessity, and those alone, to take the private property of the citizen, for the uses of the state, making just compensation therefor. We are also bound by the prohibition in the Constitution of the United States just as if we were sitting here as a legislative body, with an organic law of the state controlling and restricting our action with the same kind of language. Do not the gentlemen see that? Do not you see that it is just exactly the same, since this amendment has been adopted, as if we were dealing with a like clause in a state constitution and were attempting to make an enactment under that? Imagine for a moment now that this was a Legislature of the State, and that this provision of the 14th amendment were incorporated in the organic law of the State, and we were discussing a bill containing these clauses. Take that section 23 for instance; the entire question would be disposed of as this must be disposed of. We would look into the history and origin of the power. We would review it in the light of the interpretation and construction it had received. We would review it in the light of the necessities of our people with reference to these constitutional guaranties and protection, and it would be determined there, as it must be determined here, that you have no power,

no right, to enact anything at all like that in section 23.

Now, gentlemen say, what has that got to do with section 22? This: If the Convention shall be convinced that the position I am taking is the correct one, and that it will not do to leave section 23 in there, they may consider, "well, there are some matters embraced within section 23 that might properly be declared public uses." That being so, we want to consider section 22, which refers to public uses, is dealing with that subject in the light of these objections to section 23, and ascertain, if we can, whether we can take some of these uses for which we have attempted to provide in section 23 and make them public uses, and incorporate them by amendment or addenda to section 22. It is in that sense and in that view that I consider that the argument came on properly at this time, because in dealing simply with these amendments to section 22 in the light of just the matters embraced within it, the Convention not having its attention called to what was coming in section 23, might undertake some action that subsequently they would want to reform and do away with.

Now, I submit, that we ought to take those two sections, pass this question for the time; the matter ought to be recommitted with directions to the committee to investigate and ascertain whether my position here is correct. I do not ask nor expect that my ipse dixit shall be taken by this Convention on a question of this kind. It is a matter of grave and serious moment. It involves one of the gravest questions of constitutional law. It is not only serious as to the effect upon the people if the Constitution should be adopted, but you will observe it is serious in this particular if my position is correct: The President of the United States cannot, under his oath and under the Enabling Act, issue his proclamation upon this Constitution. The language of that act is, "if it shall appear that the provisions

of this act have been complied with, that the Constitution as adopted is republican in form and is not in conflict with the provisions of the Constitution of the United States, then the President shall issue his proclamation, whereupon the State shall be admitted."

So, it is in no captious spirit, and certainly with no desire to be heard or to make a speech (I have plenty of opportunities to do that in my profession), that I have intruded myself at this length at this time. It is in the honest and earnest and sincere conviction that you are just now upon the eve of making a great mistake—and I will go further and say that I do not believe that many of these matters that are contained in section 23 could be made public uses simply by a declaration; and after all, in every case the matter will have to be determined by the court; that under the guise of a public legislative declaration, whether in the Constitution, or in the act of the Legislature, a fact is not changed, a merely private use is not made a public use simply because a body of men representing a government say so. I think that ought to be borne in mind. This matter ought to be investigated patiently and learnedly, if you please, through the medium of a committee, so that we will feel assured that no mistake has been made.

One word with reference to the suggestion made by my friend Mr. Kimball. It seems that I misapprehended the full force of his amendment, and to that extent I withdraw whatever criticism I made upon it. I should still be opposed to it upon principle, however, because I believe that the best and safest way to do is simply to put in your declaration in this Constitution, that private property shall not be taken for public use, except upon just compensation, and put in, "first made" if you please, and "taken or damaged," and let it rest there. There is no necessity of lumbering up the Constitution with enact-

ments as to what shall be public uses, because whatever you say or do, as I said before, in the end you can do no more than the Legislature could do, and can no more take my property and turn it over to my neighbor, compelling me to sell it for a purely private use, by constitutional enactment, than you can do it by legislative enactment. And I say right here that I would hesitate long before I would vote to establish over me as a citizen of this republic such a law. I believe that it invades the sacred private rights of the citizen. I believe that it is wrong in principle. It is in violation of all that we have understood concerning those things, and it ought not to be, particularly in this Territory. It ought not to go into this Constitution if it is going to jeopardize it in the least; and I simply ask you gentlemen to consider now—I have made no further suggestion. I am not going to make any motion—whether it would be better to take those two sections on that subject and send them to a committee and let the committee report back after investigation what ought to be done in the matter,

Mr. HOWARD. I would like to ask Mr. Varian a question. You say you have no objections to the words "private property shall not be taken for public use without just compensation first made?"

Mr. VARIAN. I said I had none.

Mr. HOWARD. What particular objection have you got to the balance of that section 22?

Mr. VARIAN. None in particular—none at all. I am not criticising section 22. I concurred in the judgment of the committee the other day. I am not attacking that section, but I think the two sections are intimately connected, because it is one subject matter and ought to be disposed of all at once.

Mr. HOWARD. Section 23 is not before the house, as I understand. I am opposed to that.

Mr. FARR. Mr. Chairman, I do not

know—I would like to inquire in regard to the length of time a person can occupy in the debate.

The PRESIDENT. There is no rule in the Convention. The rule applies only to committee of the whole.

Mr. FARR. I do not wish the Convention to understand by this question that I got up for a long speech or anything of the kind. I do not consider if I was to stand here for two hours and quote you authorities it would have any bearing on this matter. The question is, what is right in the matter? That is what I want to know, and what law shall we enact for the benefit of the future State of Utah? (Reads sections 22 and 23.) Well, now, I maintain that the Legislature should provide for all of these. I have a substitute that I wish to introduce here that embraces only a few words, that I think will cover the ground of these two sections.

The PRESIDENT. We already have an amendment to section 22, and a substitute, and another section, until we take some action on this, would not be proper.

Mr. FARR. Mr. President, I just want to say this, for the consideration of the house, while I may vote for the other, this section I think will cover the ground of both of these sections and nearly all the amendments. There are a great deal of exceptions taken to this section, and they have provided a number of amendments to cover that. I will introduce this and read it and I will leave it for the gentlemen of this Convention to act upon it as they see fit:

Section 22. The Legislature shall provide by law that private property shall not be taken or damaged for public or private use without due compensation first being made.

I have noticed all the amendments of the different gentlemen. I have tried to embody their amendments as much as possible in this so that it will provide

for all the objections, and the section will cover the whole in as few words as possible. I do not believe in going into all this rigamarole of law when it can be simmered down to a few words. I maintain the Legislature can provide all that there is in this twenty-third section. This Convention requires the Legislature by this section to provide a law for the whole of this. And I leave this section now for your consideration.

Mr. SQUIRES. Mr. President, in view of the remarks of the gentleman from Salt Lake, who has just taken his seat, and in view of the great importance of this subject as to the constitutionality of our own Constitution, when it is to be adopted, I move that sections 22 and 23 be referred to the committee on judiciary with instructions to make an early report on that subject.

Mr. KIMBALL (Weber). I second that motion.

Mr. ROBERTS. Mr. President, I hope that motion will not prevail, for the reason that I believe that this house is prepared to settle this question now. We have been making slow progress and I think it is time that we made haste as much as we possibly can. Not that I am in favor of endangering any great principle by hurrying it over, but after the doctrines that have been expounded here on this question, and the rights and powers that the Legislature will have in the matter, and the questions also apparently having been pretty well settled in the courts of the country, I think we can at this time adopt section 22, and when we come to consider section 23, either declare such uses public uses as will grant the privileges desired to be obtained, or else leave it to the Legislature and to the future action of the courts, and we can do so with perfect safety. For one, I am prepared to accept section 22 as it is, and then accept such amendments of section 23 as will remove the objections that are made here to it.

Mr. CANNON. I would like to ask

Mr. Varian a question with his consent. I was not present at the time the gentleman commenced his address, but from what he said in closing I understand that section 22 as proposed to be amended by Mr. Evans, of Weber, provides that private property shall not be taken or damaged for public use without compensation, and that that would be agreeable to Mr. Varian?

Mr. VARIAN. Mr. President, I would say that I have no objections to section 22, but as coupled with section 23 there is a still further question in connection with it. If section 22 is allowed to stand, the question of public uses is complicated by the declaration in 23 as to private uses. For instance, take mining and milling, etc., that might be construed as a prohibition against the Legislature declaring certain public uses under section 22. If it were certain that 23 were to be stricken out, I would not have a word to say about section 22, and am perfectly content with it.

Mr. CANNON. Then, I am opposed to the motion to commit and in favor of voting on this motion as proposed. One reason is that section 10 was referred to the committee on judiciary several days ago.

Mr. SQUIRES. Mr. President, I will withdraw my motion with the consent of the gentleman from Weber.

Mr. KIMBALL (Weber). I withdraw my second. I now call for the previous question on the adoption of my substitute for section 22.

Mr. EVANS (Weber). Mr. President, I want to make a remark or two before this vote is taken, and I will be very brief.

The PRESIDENT. The previous question is called for.

Mr. KIMBALL (Weber). I submit the previous question has precedence of everything else. I object to the gentleman's speaking until that is disposed of.

The previous question was ordered.

The PRESIDENT. The question is

on the substitute offered by Mr. Kimball of Weber.

The substitute was rejected.

The PRESIDENT. The question now recurs on the amendment of Mr. Evans.

Mr. KIMBALL (Weber). Mr. President, I raise the point of order, the previous question was on my substitute and not on any other matter foreign to that section. I now move to amend section—

Mr. IVINS. Mr. President, I rise to a point of order.

Mr. PRESIDENT. The gentleman was right; he moved the previous question simply on his substitute.

Mr. IVINS. The gentleman from Weber (Mr. Evans) moved an amendment to this section. The other gentleman from Weber moved as an amendment to the motion a substitute. If a substitute is in the form of an amendment, the question having been put upon the substitute of the gentleman from Weber, my point of order is that the question should immediately follow upon the amendment of the other gentleman from Weber, without any further debate.

Mr. KIMBALL (Weber). Mr. President, my motion was the previous question on my own substitute. I believe that the chair sustained me in that.

The PRESIDENT. I sustained it. The question before the house is the amendment.

Mr. KIMBALL (Weber). I move now to amend section 22 by adding at the end thereof the following words:

That among other public uses shall be included all lands for necessary reservoirs, drains, flumes, sewers, conduits, pipes, or ditches, for agricultural, mining, milling, domestic, or sanitary purposes.

Mr. EVANS (Weber). Mr. President, I arise to a point of order, that the amendment of the gentleman from Weber is not in order. I made a motion to strike out a portion of that section and now he offers to amend by

adding to the section. We have got to pass certainly upon that matter which I moved to strike out. I have no particular objection to the gentleman's amendment, but I think we ought first to dispose of that matter which I moved to strike out. The amendment which he offers is in the right direction,

Mr. KIMBALL (Weber.) Mr. President, I maintain that the gentleman's point of order is not well taken. It is true that he moved to strike out certain matter of that section, but my motion was to add to the end of that section, and it does not make any difference whether his amendment is adopted or whether it is not adopted. My amendment comes to the end of the section.

Mr. EVANS (Weber.) We can not tell what the end of the section is now until we vote—

The PRESIDENT. The chair is of opinion that the gentleman's amendment is in order.

Mr. CANNON. Mr. President, would an amendment to the amendment be in order?

The PRESIDENT. No; there are two now before the house.

Mr. THURMAN. Mr. President, I move the previous question on the whole subject.

Seconded.

The PRESIDENT. The question now recurs upon the proposed amendment of Mr. Kimball.

The amendment was rejected.

The PRESIDENT. The question is now on the adoption of this section as proposed by Mr. Evans and accepted by Mr. Richards.

Mr. HILL. Mr. President, it is some time since we heard that amendment read. I would like to have it read before the motion is put.

The PRESIDENT. It is the striking out after the word compensation—all after that in that section be stricken out.

Mr. VARIAN. Did Mr. Evans accept

the suggestion over here, "or damaged?"

Mr. EVANS (Weber). I did.

The amendment was agreed to.

The PRESIDENT. Section 23 is now before the house.

Mr. VARIAN. Mr. President, I move to strike it out.

Seconded.

Mr. KEARNS. Mr. President, I have a substitute here which I wish to offer for section 23, taken from the 14th section of the Idaho declaration of rights, which I think will cover all the grounds.

Mr. VARIAN. I move to strike out section 23.

The motion was agreed to.

The PRESIDENT. The secretary will read section 24.

Sections 24, 25, 26 were read.

Mr. HART. Mr. President, I move to strike out "a" as it stands in the second line of section 26, so that it will read, "all laws of general nature shall have uniform operation."

The motion was agreed to.

Mr. VAN HORNE. Mr. President, I move to strike out section 26.

The motion was rejected.

Sections 28 and 29 were read and passed without amendment.

Mr. SQUIRES. Mr. President, I now move the previous question on the whole proposition.

The previous question was ordered.

Mr. CREER. Mr. President, I move that we adopt the preamble as reported by the committee.

The motion was agreed to.

Mr. WELLS. Mr. President, before action is taken—

Mr. KIMBALL (Weber). Mr. President, I rise to a point of order. The previous question was sustained.

The PRESIDENT. Only on the bill of rights, not on the preamble.

Mr. WELLS. Before final action is taken on this article I move that the subject matter—

The PRESIDENT. The previous question has been called for and ordered.

Mr. EVANS (Weber.) Mr. President, I move that he have unanimous consent to speak.

Mr. KIMBALL (Weber). I object; I ask for the roll call.

Mr. HART. Mr. President, I arise to a point of order on the previous question on this whole article. Thus far we have arrived at no understanding as to the scope of Rule 23—

The PRESIDENT. It is stricken out.

Mr. HART. Rule 23. (Reads rule 23). Now, Mr. President, while I think a great many of us would not wish the ayes and noes—I think in fact we can unanimously agree that the ayes and noes should not be called separately on all these propositions, because I believe that there are a number of these propositions that there is no objection to from any person. But there are certain propositions here that individuals should have the right to record their votes on. There are some of these that I shall vote on separately. My objection is to the previous question on this whole proposition that it is out of order under these rules, and that the proper thing to do is to vote on each proposition separately.

The PRESIDENT. Not each section—upon the proposition—this is a proposition. The ayes and noes are called for under it.

Mr. HART. I think each one of these sections is a proposition.

The PRESIDENT. Oh, no, it is a bill of rights.

Mr. HART. And a man would have a right to cast a vote against any one section.

The roll was then called on the adoption of the article entitled declaration of rights, and the vote was as follows:

AYES—96.

Allen	Lemmon
Anderson	Lewis
Barnes	Lowe, Wm.
Bowdle	Lowe, Peter
Boyer	Low, Cache
Brandley	Lund

Button	Maeser
Buys	Mackintosh
Call	Maloney
Cannon	Maughan
Chidester	McFarland
Christiansen	Miller
Clark	Morris
Coray	Moritz
Corfman	Murdock, Beaver
Creer	Murdock, Wasatch
Cunningham	Murdock, Summit
Cushing	Page
Driver	Partridge
Eichnor	Peters
Eldredge	Peterson, Grand
Emery	Peterson, Sanpete
Engberg	Pierce
Evans, Weber	Preston
Farr	Raleigh
Francis	Richards
Gibbs	Ricks
Goodwin	Roberts
Green	Robertson
Hammond	Robinson, Kane
Hart	Robison, Wayne
Haynes	Ryan
Halliday	Shurtliff
Hill	Spencer
Howard	Squires
Hughes	Stover
Hyde	Symons
Ivins	Thompson
James	Thoreson
Johnson	Thorne
Jolley	Thurman
Kearns	Van Horne
Kerr	Varian
Kimball, Salt Lake	Warrum
Kimball, Weber	Wells
Lambert	Whitney
Larsen, L.	Williams
Larsen, C. P.	Mr. President.

NOES—0.

During the roll call members explained their votes as follows:

Mr. BOYER. Mr. President, I do not fully comprehend what we are voting on.

The PRESIDENT. You are voting on the bill of rights as amended.

Mr. ROBERTS. Does that include the preamble also?

The PRESIDENT. No, sir; the preamble will be voted on separately afterwards.

Mr. ROBERTS. And the ayes and nays called on the preamble?

The PRESIDENT. Yes, sir.

Mr. BOYER. No further amendment allowed?

Mr. ROBERTS. Gentlemen, I would ask—

The PRESIDENT. Gentlemen, you are out of order. The roll is being called.

Mr. HART. Mr. President, I wish to explain my vote. I can only vote yea, in favor of this proposition as a whole, but there are certain propositions in there that I wish to have my vote recorded on, and as I understood it I had the right under rule 23 to so record my vote. I, therefore, desire to be recorded against the striking out of section 23 and also against the adoption of section 10 as it now stands.

The PRESIDENT. The gentleman has the privilege.

Mr. VARIAN. Let it go on the minutes.

Mr. PARTRIDGE. Mr. President, I am willing to vote yea on that article, except the amendment of section 22. I wish to be recorded as voting no on that section.

Mr. THURMAN. Mr. President, I would like to vote upon the entire bill with the exception of the amendment to section 22, by which the Convention refused to require that private property should not be taken for public use without just compensation first made. As to that, I wish to be recorded in the negative.

Mr. VARIAN. Mr. President, in voting yea upon the article, I simply want to state that I have not changed my views as to the article. I am opposed to section 10, but I don't understand we can vote yea on one proposi-

tion and nay on another. Therefore, I vote yea upon the whole proposition.

Mr. FARR. Put down the same for me.

Mr. WELLS. Mr. President, I vote yea and announce now that I do so with the understanding that I may move hereafter to reconsider, because I am not satisfied to strike out section 23.

The PRESIDENT. The chair declares article 1, the declaration of rights, adopted.

Mr. KIMBALL (Weber). Mr. President, I have stood up here so long in order to get the floor, because I knew that if I kept my seat my friend Dave Evans, from Weber County, would be ahead of me, and therefore I stood up, while you were announcing the vote. I now move, Mr. President, that the preamble—

Mr. EVANS (Weber). Mr. President. I arise to a point of order, that when a vote is commenced on any proposition it must be continued.

Mr. KIMBALL (Weber). The president had announced the vote.

The PRESIDENT. The gentleman is not in order. I had announced the vote on the bill of rights.

Mr. EVANS (Weber). The question is on the adoption of the preamble; nothing is in order but the roll call on that.

Mr. KIMBALL (Weber). That has been added to the many times my friend has been wrong. He is wrong again. My motion now is that we adopt the preamble as reported by the committee and as it appears in the printed article, and that we take the vote on it now. I move the previous question now.

The previous question was ordered.

The roll was then called on the question to adopt the preamble, with the following result:

AYES—95.

Allen	Lemmon
Anderson	Lewis
Barnes	Lowe, Wm.

Boyer	Lowe, Peter
Brandley	Low, Cache
Bowdle	Lund
Button	Maeser
Buys	Mackintosh
Call	Maloney
Cannon	McFarland
Chidester	Miller
Christiansen	Morris
Clark	Moritz
Coray	Murdock, Beaver
Corfman	Murdock, Wasatch
Creer	Murdock, Summit
Cunningham	Page
Cushing	Partridge
Driver	Peters
Eichnor	Peterson, Grand
Eldredge	Peterson, Sanpete
Emery	Pierce
Engberg	Preston
Evans, Weber	Raleigh
Farr	Richards
Francis	Ricks
Gibbs	Roberts
Goodwin	Robertson
Green	Robinson, Kane
Hammond	Robison, Wayne
Hart	Sharp
Haynes	Shurtliff
Halliday	Spencer
Hill	Squires
Howard	Stover
Hughes	Symons
Hyde	Thompson
Ivins	Thoreson
James	Thorne
Johnson	Thurman
Jolley	Van Horne
Kearns	Varian
Kerr	Warrum
Kimball, Salt Lake	Wells
Kimball, Weber	Whitney
Lambert	Williams
Larsen, L.	Mr. President.
Larsen, C. P.	

NOES—0.

The PRESIDENT. The chair announces the preamble carried.

Mr. KIMBALL (Weber). Mr. President, I move that we now resolve ourselves into committee of the whole to

consider the next article on the calendar.

The motion was agreed to and the Convention then resolved itself into committee of the whole with Mr. Pierce in the chair.

COMMITTEE OF THE WHOLE.

The article entitled executive was then considered:

Section 1 was read as follows:

Section 1. The executive department shall consist of governor, secretary of state, state auditor, state treasurer, attorney general, and superintendent of public instruction, each of whom shall hold his office for four years, beginning on the first Monday of January next after his election, except that the terms of office of those who were elected at the first election shall begin when the State shall be admitted into the Union, and shall end on the first Monday in January, in the fourth year thereafter. The officers of the executive department shall, during their terms of office, reside at the seat of government, where they shall keep the public records, books, and papers. They shall perform such duties as are prescribed by this Constitution and as may be prescribed by law.

Mr. KIMBALL (Weber). Mr. President, I move to amend section 1 by inserting after the word "governor," in line 2, the word "lieutenant-governor."

Mr. THURMAN. I second the motion.

Mr. KEARNS. Mr. President, I hope that the motion will not prevail. It is unnecessary to create any extra offices. We find thirteen states in the Union that are all of more consequence and with more inhabitants and wealthier states than this that get along without a lieutenant governor. Again, I find that the secretary of state is an office that contains a good deal more responsibility. We are apt to get a better representative in the office for secretary of state than we are for lieutenant governor, and I do not see why at this time we should create that office. I think it is unnecessary. I hope this motion will not prevail.

Mr. KIMBALL (Weber). Mr. Chair-

man, I am of the opinion that my friend's argument is not good, that because thirteen states do not have a good thing, that we, the last State, should not have it. I certainly think that a lieutenant governor is a necessary party in the executive department, and I think that for several reasons. The first reason is that under all of the constitutions of all the states a lieutenant governor is the presiding officer of the senate.

Mr. KEARNS. Might I ask you a question?

Mr. KIMBALL (Weber). Wait a minute, will you please? You talk so fast I cannot keep track of you and I would like to get my say first, because I may forget it. He is the presiding officer of the senate. He is an indifferent officer, he is a man there without a vote. He presides over that senate impartially. I say that is a good reason for having a lieutenant governor. Another reason for it is that when the people come to vote for governor or lieutenant governor or secretary of state they know who they are choosing to be their governors and they express their choice, that the man that is named as lieutenant governor shall be governor in the absence of the governor or in case of his death or disability. You take the secretary of state. He is elected to perform other duties entirely, and I say you should not change the form of government so as to diverge from the constitutions of almost all of the states. Now, Mr. Kearns.

Mr. KEARNS. You say he is always speaker of the house. Those thirteen states that have no lieutenant governor, how do they manage to get a speaker?

Mr. KIMBALL (Weber). I have been at a loss to know how they did it. They elect some man from the democratic party or the republican party or the populist party, and they have a man in there that is a partial man from beginning to end, and when you have a

lieutenant governor, it does not make any difference whether your state is republican or democratic, he is indifferent. He has no vote. He cannot vote on any question, and therefore, I say that I am in favor of retaining the lieutenant governor. It does not cost you anything. Say the legislative article provides four dollars a day, that the lieutenant governor gets when the Legislature is in session, and then he loses his time besides, and I certainly think that amendment ought to prevail.

Mr. VARIAN. Mr. Chairman, I simply want to explain the matter as it appeared to the committee. We felt that whichever way this was reported it would not meet with the approbation of the entire Convention. That is, if it reported a lieutenant governor, perhaps we would find a feeling or disposition to strike it out; but these were the reasons that moved the committee to eliminate from the government the lieutenant governor: First, the object, of course, was to economize as much as could be done consistently with public good, and then it was considered that the office was hardly worth the keeping. We could not afford to pay the State officer. We cannot afford to pay a lieutenant governor. At least the committee so considered it.

It is a high office, and, as suggested, might perhaps assume a still higher function in case of the death or disability of the governor. I have noticed in the experience that I have had in this matter that the result was about in this wise: The State provides for the office of lieutenant governor. When he is elected he knows that he will receive no salary. He knows that there is more or less dignity attached to it. Some bright man runs for the office and the moment he gets there he looks about him and sees all the other officers getting pretty good salaries and well taken care of by the State. He begins to think, "I am not treated right here; I have got to devote my time to the ser-

vice of the State; I cannot leave the State, and as long as I hold this office I am liable to be called upon to perform duties of the State. Every meeting of the Legislature I have to go there and give my time for the State at a small per diem. I do not think it is right. His friends begin to think so too. The result is they commence to hatch up some legislative scheme to provide emoluments for him.

Now, this is just what happened in your adjoining state of Nevada. No sooner was the constitution adopted and the legislature had met—perhaps the second session, than a scheme was put on foot to provide some way of giving the lieutenant governor a salary, and what did they do? They made him warden of the state prison and that ran along several years until the people became assured it was not just the thing to put politicians in that office. There were too many breaks for liberty; convicts were killed, and officers too; they took him out of that and made him state librarian at a salary of three thousand dollars a year, and so it went. Now, we thought history might perhaps repeat itself. As you start in you will find a tendency like this: "I will run for lieutenant governor, the dignity is all I want." He runs for this office, which is a dignified office; when he gets in there he begin to see that the other men are not running for the dignity alone. They are running for the salary, and they all want all they can get and like to have it increased if possible. That is human nature, and so you will have the lieutenant governor, and his friends, complicating matters and endeavoring to provide some place for him in order that he may live in the capital and be one of the officers with the rest of them. Now, whether that is a sufficient reason in the minds of this Convention, at least that was one of the reasons that moved the committee. Of course the committee are not wedded to the notion at all, and I do not desire

to take time insisting that it should remain in that way, but I thought that we would explain the views that moved us.

Mr. KIMBALL (Weber). If you will point to some other instance than Nevada—

Mr. VARIAN. That was under my personal experience.

Mr. KIMBALL (Weber). I am a little prejudiced against the practices in Nevada. I would like to have some other state.

Mr. VARIAN. The gentleman may be prejudiced against a thing that he don't know anything about. I think, perhaps, it will compare quite favorably with those of Indiana, certainly, and if he will take the trouble to be informed he will ascertain that at the time that constitution was made and adopted, Nevada was filled up with some of the brightest men and most distinguished men that ever assembled in one community in these United States.

Mr. IVINS. Mr. Chairman, the gentleman from Weber (Mr. Kimball), who moves as an amendment to this article that this additional office be created, gives as his reasons, first, that the lieutenant governor is president of the senate, and second, that when the people elect a lieutenant governor, they know that the man they choose will, in case of the disability of the governor, act in his stead, and he advanced no other reasons. Now, gentlemen, isn't it a fact that there will be among the twenty-five men or more who may be chosen to the senate of this State some one man that will be just as amply capable of acting as president of the senate as the lieutenant governor might be? Is it not also a fact that the people, understanding when they choose a secretary of state that he will be governor of this Territory in case of the disability of the chief executive, would be just as likely to choose an efficient governor direct? In the first place, this section as it stands, has in view

economy. The committee did not think that a multiplicity of offices should be created where they could be consistently dispensed with.

In looking over the constitutions of other states, we find that the lieutenant governor, as a rule, is a salaried officer. If the plan that has been suggested shall be carried out the officers of this State will be salaried officers, and in that event a lieutenant governor would receive a salary, which in many of the state constitutions I have examined is made about half that of the chief executive. Under those conditions it does seem to me that it is unnecessary. While it is true that in a majority of the states the office of lieutenant governor is created, it is also true that in some of the states which have been more recently admitted to the Union the secretary of state performs the duties of governor during his disability, and it was with this view that the section was passed in the committee as it is. Some greater reason should be shown than that offered by the gentleman from Weber, before I should feel like consenting to any change.

Mr. GOODWIN. Mr. Chairman, I do not care to argue this question, but I would like to a little further elaborate the record in Nevada, because the same thing may be done over in this Territory or State. The lieutenant governor was made warden of the penitentiary, but it was given up after awhile because it demoralized the prisoners. The reason given was that where the prisoners were brought in close association with a high officer they lost the respect for authority and could not see very much distinction between a lieutenant governor and a horse thief; but I arise to ask if I may be excused and to state that the judiciary committee would have no meeting to-night.

The CHAIRMAN. The gentleman may be excused.

The question is on the amendment of inserting the words "lieutenant gover-

nor" alter the word "governor," in the first line.

The amendment was rejected.

Mr. LOW (Cache). Mr. Chairman, I desire to offer an amendment to section 1, which is to strike out all that part of the section, commencing at the word "beginning," in line 5, down to and including the word, "thereafter," in line 11. My reason for offering this amendment to section 1, can better be stated and explained more fully when we reach section 2. The clause which I ask to be stricken out here in section 1 seems to me to be precluding the possibility of alternating the offices in the executive department, and I desire when we reach section 2 to offer an amendment that will provide that offices in the executive department will be alternated so that we may not have a governor, secretary of state, state auditor, state treasurer, etc., all elected at the same time, and for the same length of terms.

Mr. VARIAN. Mr. Chairman, I still do not understand, even granting the purpose of the gentleman to amend section 2, why that should prevail. What reason is offered for letting state officers alternate, or some of them? The whole theory of the bill was that state officers would be elected at one time. Of course we have an understanding that certain other elections be held at different times.

Mr. LOW (Cache). Mr. Chairman, by way of explanation, I would read the amendment which I wish inserted in section 2, that after the word "legislature," in line 4 of section 2, the following:

Provided that at the first election the governor and state officers shall be elected for a term of two years.

By striking out this portion of section 1, which I move to strike out, my idea was to provide for the election of two of these officers for two years at the first election. Then after that their

terms of office should be four years as provided in section 1, if we strike out that clause to which I have the objection in section 1.

Mr. VARIAN. If I understand the gentleman, then, he wants to have the state officers elected alternate, that is at different times?

Mr. LOW (Cache). Yes, sir; that is my understanding; they shall all hold their terms of office for four years after the first election, and by putting in the first two or three of them for two years, then at the end of two years, we will have another election for them and their terms of office shall then be four years, and it would not necessitate the election of all the officers at the same time and their term of office expire at the same time; and I would explain further that I believe it would be an advantage to the executive department not to have the terms of the governor and secretary of state expire at the same time, for I understand that the provision was made in this article that in the absence or disability of the governor the secretary of state shall become acting governor, and it would be an advantage I claim that the secretary of state would have had an experience previous to the election or incumbency of a new governor in office.

Mr. ROBERTS. Mr. Chairman, I rose for the purpose of asking the gentleman the advantage that would accrue from having these elections as he proposes. That is, dividing the election of the executive officers, and he has given an explanation of that. But I wish to say that the advantage that he claims for this arrangement that he proposes does not appeal to my judgment. I take it for granted that the executive offices will not be very intricate, and men who will be elected to those offices will not be boys but men of experience and competent to discharge the duties to which they shall be elected, and I can conceive of no advantage really to be derived from the plan suggested by the

gentleman from Cache Valley, and therefore should not favor the amendment.

Mr. LOW (Cache). Mr. Chairman, I will explain further in regard to this matter, that it is also provided in this same article that the executive officers, many of them, are members of various boards of control, and if we should happen to vacate all the positions in the executive department at once we would have men put into these places who would not have an understanding pertaining to these various boards of control.

Mr. CANNON. Mr. Chairman, I favor the amendment by the gentleman from Cache; in the article which provides for revenue, taxation and public debt, it is designed to make several of these officers a board of equalization, and I think the advantage of having men who have had some experience and other men who are just coming into office would be considerable. It would be upon the same principle upon which they elect senators to the United States senate, and that is followed in many of the states in other respects that they have different members with their terms of office expiring at different times; so also they would have in the various boards referred to here some men who had had some experience. While it is true they would probably elect men of experience, yet there is a certain amount of routine that has to be gone through with, and I believe it would be an advantage to the State to have them elected in the manner suggested by the amendment. I should, therefore, favor it.

Mr. VARIAN. Mr. Chairman, I agree with Mr. Roberts. The question is new to me and I am not prepared to exchange ideas with the gentleman on this statement. It seems to me to be something new. I am not aware whether it has been practiced anywhere. Perhaps my friend can tell me whether the state of Washington has

it. But I call my friend Mr. Cannon's attention to the fact that there is not really so much in his reason as at first blush would occur. The same principle would apply in the case of the federal government; the President and cabinet officers change every four years and sometimes oftener. Offices are not dependent on the individuals. They live when the individuals go out, and unless the gentleman is able to illustrate a point rather to some particular instance of this kind in other communities it seems to me we ought to hesitate to change the general rote.

Mr. CANNON. I call the gentleman's attention to the fact that the custom in Utah has been almost universally in our boards of county commissioners, or selectmen, to elect them alternately and not have them retire at the same time.

Mr. VARIAN. But where has the custom been followed as to state officers, who have an alternating system of that kind? Where do you find them electing a governor one year and a secretary of state another, etc.?

Mr. BOWDLE. You find it in your native state, I believe.

Mr. VARIAN. It is so long since I have been there I am not able to say.

Mr. JAMES. Mr. Chairman, before putting the question, I want to just make a remark. I am not in favor of the amendment for one reason that has not been suggested, but the greater reason is because this matter has been in charge of a committee who have given it careful thought in their committee room, men that would be capable of dealing with this question, and to my mind their judgment is a guide to me. But there is still one other. It has been said that it would be to the advantage to alternate. Now, my friends, I do not believe that alternating is a good healthy proposition, for the benefit of the State. You, Mr. Chairman, and all other gentlemen here that have observed officials who are not in harmony, know that they do not work to

the great advantage for the good of the public, that they do where they are in harmony. Now, the party that may be successful at the election will elect the governor and the other party that probably has been defeated will have the secretary in, and you have a set of officers that probably will not work so well together. Your team is not so well matched. They do not trot so nicely on the road and consequently in place of a benefit, it is really a detriment.

The amendment of Mr. Low, of Cache, was rejected.

Mr. BUTTON. I would like to ask Mr. Varian one question for information. We have to elect a congressman every two years. This provides for these officers to hold four years after this first election. Will it be then that in the intermediate years, we have to have elections?

Mr. VARIAN. I will state that it was thought that after all these articles had been substantially adopted by the Convention then finally this question of time would be fixed.

Mr. BUTTON. Then it won't have any effect on this?

Mr. VARIAN. I presume not. It may be necessary to change this time. It will depend on what the action of the Convention will be in regard to the election this fall, how they will alternate the elections. The committee don't consider that the fixing of this matter in this section was binding on the committee, but simply put in there for the purpose of making the article complete and subject to be changed when you determined how you are going to have the elections.

Section 2 was read as follows:

Sec. 2. The officers provided for in section one of this article shall be elected by the qualified electors of the State at the time and place of voting for members of the Legislature, and the persons respectively having the highest number of votes cast for the office voted for shall be elected; but if two or more shall have an equal and the highest number of votes for anyone of said

offices, the two houses of the Legislature at its next regular session shall forthwith by joint ballot elect one of such persons for said office. The returns of election for the officers named in section 1 shall be made in such manner as may be prescribed by law, and all contested elections of the same, other than provided for in this section, shall be determined as may be prescribed by law.

Mr. LOW (Cache). Mr. Chairman, I have an amendment. I desire to insert after the word article, in line 2 of section 2, the words "except the superintendent of public instruction." I desire to say in support of the amendment which I have just offered that I believe in short that the superintendent of public instruction should be an appointive office.

Mr. EICHNOR. Mr. Chairman, this time I shall not quote from the constitution of the state of Washington. In the state of Pennsylvania the state superintendent is appointed by the governor, and ever since the state of Pennsylvania had a superintendent of public instruction; when we had a republican governor he appointed a republican, when we had a democratic governor, he appointed a democrat. It is simply six one way and half a dozen the other. I believe in electing him.

Mr. HEYBOURNE. Mr. Chairman, I am opposed to the gentleman's motion. I believe in leaving the power and choice of these various officers in the hands of the people just as far as it can be done. Further than that, I am of the opinion that the gentlemen who composed the committee that had this matter in charge have given it very candid and careful consideration, and I am willing so far as the measure has been presented to leave the matter in their hands. Therefore, I shall object to the motion to amend.

Mr. LOW (Cache). Mr. Chairman, I have not heard any argument adduced here why we should submit to every proposition that is presented by members of certain committees, because the gentlemen of those committees would

give due consideration to the matters before them and whose judgment would be good. That is the tenor of the remarks made that oppose the amendment I submitted. I desire to add that one reason why I submit this amendment is that we would oftener have an educated man appointed. Where it would be left to the people we would have a politician elected. A politician would work for the office. Certainly he might do if appointed. We would have the governor use his judgment in regard to the question if the matter of appointment is referred to him subject to the support or consent of the senate—the legislative body, and I contend that we would get a better man, no matter if it may be a man of the same political faith that he would have been, if he had been elected. In nine cases out of ten, this would be the truth—the facts in the matter. Although the question of education has been left out of politics to a very great extent, we will find that we will take it into politics to the very greatest extent, if we would allow this to become an office in which the plum would be worth a political fight for, and therefore I would favor the appointing of this officer, no matter what his political ideas may be.

Mr. VARIAN. That is upon the theory that every man who is elected is going to be a politician. Would not the governor be a politician also? And could you depend upon him any more than you could upon a man elected by the people?

Mr. LOW (Cache). You could to a very great extent.

Mr. VARIAN. You would have the governor a politician, picking out another politician to aid him in his political schemes?

Mr. LOW (Cache). The defeat of my first suggestion of course removed this further from possibility in this connection, because the governor would be in four years then, and in the other case he would be in only two years, and I

say there could not be so much conniving in that case. But, of course, if you remove it further from political strife it would be better.

Mr. RICKS. Mr. Chairman, there is one point that we ought to consider in connection with this amendment. Mr. Low refers to section 14 of the article on elections and rights of suffrage. (Reads.) Now, this provides that the superintendent of public instruction, whom I take to be a school officer, should be elected at the same time the other State officers are, and I should think that this amendment or some other looking to harmonizing these two sections ought to be considered.

Mr. VARIAN. I do not understand that the term school officers used in the article on elections and rights of suffrage includes superintendent of public instruction. He is a State officer, but as I said before, can we not, after you get all these articles settled to your satisfaction, by looking over the two that conflict, fix it as you want it?

The amendment offered by Mr. Low, of Cache, was rejected.

Mr. EVANS (Weber). Mr. Chairman, I desire to propose an amendment to section 2, by striking out all in the section after and including line 12. I have so much confidence in the chairman of this committee that I will leave it entirely with him as to whether that is necessary. It simply leaves the Legislature power to do these things, which they would have anyway.

Mr. VARIAN. I have no objection, I think. The thought was that inasmuch as a provision for one sort of a contested election was made in the article—that is, where there were two or more having an equal or higher number of votes than others, that it should be determined by the Legislature. This was put in to provide for other cases, but as at present advised, I see no objection to striking it out.

The motion of Mr. Evans was agreed to.

Section 3 was read as follows:

Sec. 3. No person shall be eligible to the office of governor or secretary of State unless he shall have attained the age of thirty years at the time of his election, nor to the office of attorney-general unless he shall have attained the age of twenty-five years at the time of his election, and have been admitted to practice in the supreme court of the State of Utah, nor unless he shall be in good standing at the bar at the time of his election. No person shall be eligible to any of the offices provided for in section one of this article unless at the time of his election he shall be a qualified elector and shall have been a citizen resident of the State or Territory for two years next preceding his election.

Mr. VARIAN. Mr. Chairman, possibly when you get through with your article on elections, a portion of this section may properly be eliminated. You might pass it now if you will.

Mr. EICHNOR. Mr. Chairman, I wish to offer an amendment to section 3, at the end of line 15, "all officers of the executive department, except the superintendent of public instruction, shall be ineligible to election as their own successors." The reason I offer that amendment is this: The states that have adopted that plan to elect their officers for four years and then make the officers of the executive ineligible to re-election as their own successors—the plan has given great satisfaction.

Mr. BOWDLE. What states have done that?

Mr. EICHNOR. Quite a number of the eastern states. I will come back to Pennsylvania as one of the states, there are several others, the names I cannot recall. I think Ohio has it. Now, if any of you have ever lived in a state where the governor has the opportunity to scheme for re-election as his own successor, I think you would all be in favor of the amendment.

Mr. MACKINTOSH. Mr. Chairman, I would say that that rule ought to apply to the treasurer and all officers having the responsibility of funds.

Mr. EICHNOR. It does apply to all executive officers.

Mr. MACKINTOSH. It should apply to that one particularly, because in cases of malfeasance in office, or breaches of trust, they can cover them up and go on if they succeed themselves.

Mr. LOW (Cache). Mr. Chairman, I desire to amend Mr. Eichnor's amendment by saying they shall not be eligible to any other office during their term of office.

The CHAIRMAN. There is no second to it.

Mr. IVINS. Mr. Chairman, I just want to say that I trust this amendment of Mr. Eichnor's will not prevail. There is nothing so very desirable in these offices that they will be greatly sought after, and if a man makes a good governor why should not he serve two terms, if the people want him? That is the view I take. I do not believe in placing this restriction in this Constitution. If the people want a man for two terms let them have him. If they do not, there is nothing compulsory about electing him.

Mr. EVANS (Weber). Mr. Chairman, I was just going to say that I was going to support the amendment, that is about all. My purpose in supporting it is this, that it will prevent the governor and executive officers from laying their political wires for re-election. I think the provision is a good one. We have given them a long term of office—four years.

Mr. VARIAN. Mr. Chairman, I am at a loss to understand how the State is going to be benefitted from preventing one man laying his political wires to be elected and letting another man lay his political wires. As long as humanity is as it is, men who have a liking and aptitude for political life, you will always find them laying wires. If a man wants an office, he will try to get it, and I see no objection to a man who as he received the suffrages of the people to a high and responsible office, having filled it with satisfaction to himself and

his constituents, asking an endorsement of the people for his faithful service, for his fidelity, to his trust. I see no difference in that particular, so far as the State is concerned than to allow a stranger to lay the wires. You cannot help that. A man who has not held office, an untried man, he will be seeking to get there, and he will do just as much and more perhaps than the gentleman who relies upon his position in the community and the record that he has made for the suffrages of the people. Of course, gentlemen, this matter of continuing men in office may be abused, but I have yet to learn that simply permitting men to be re-elected once is such an abuse. I hope that amendment will not prevail.

Mr. MAESER. Mr. Chairman, I speak in regard only to the superintendent of public schools and his office. Now, all politics are a curse on education, and I would like to see that office removed as far as possible away from politics. Now, that office is now elective. The people may be fortunate enough, and I trust they will, to secure a very fine superintendent of public schools, because we have one now. Now, it is not possible for any man, no matter who it is, and Mr. Lewis, our present commissioner of schools, will bear me out in that statement—it is not possible for him to do much in one year. It takes several years to make his mark and organize the schools of the State or Territory, as the case may be, so that he can see the fruits of his labors. Suppose now we have a superintendent of common schools secured for the first four years, he has succeeded in introducing a system of schools, beneficent and beneficial in the highest degree, giving satisfaction to the whole people, and by the time now he has got this system in full working order—by about four years, everything goes nicely and he finds he would be deprived from re-election.

Mr. EICHNOR. I would like to ask

Mr. Maeser—you understand that the amendment excepts the superintendent of public instruction?

Mr. MAESER. I sustain your position. Now, then, according to that, he would be deprived of re-election. And a new one would step in. He has got new ideas. Gentlemen, I know a little of what I am talking about; you do not find two educators that agree in all points. Therefore, he will have his own system. His predecessor has made a fine record and now he wants to do something also. He will undo a great deal of his predecessor, as much as possible, in order to establish his mark, and so every four years our educational system is liable to be thrown into confusion. But suppose that a superintendent who is not very efficient, after four years this people can get rid of him, until we get one that will give satisfaction or start with one that gives satisfaction. We have one now that gives extreme satisfaction. He starts a very fine system throughout. Perhaps that system ought to be perpetuated—ought to be sustained. Then, by all means let us have him again, and so on. Therefore, I sustain the proposition of Mr. Eichnor.

Mr. HEYBOURNE. Mr. Chairman, I would like to ask Mr. Eichnor—that argument applies to Doctor Maeser just the same as do his remarks to the superintendent of instruction?

Mr. EICHNOR. I say no, for this reason. Because all the State officers are political officers, while we may elect a State superintendent—we will nominate him by a political party and at the same time as Doctor Maeser states, he should be removed from politics as far as possible.

Mr. LOW (Cache). Mr. Chairman, while I shall support Mr. Eichnor's amendment, provided I cannot get some one else to amend it still further, I wish to state that it is not entirely satisfactory to me, because I would like if it could be made possible that the

governorship would not be made the stepping stone to the senate.

Mr. EICHNOR. That is in the last section.

Mr. RICHARDS. Mr. Chairman, I hope this amendment will not prevail. I see no good reason for it. It seems to me it is in the nature of restriction of the right of the people in relation to these matters. If an officer has performed his duty faithfully and if people desire to re-elect him, I do not see why they should not have the chance to do it. I am opposed to it. Now, when you come to putting objections in the way of the chief executive of the State paving the way to senatorial preferment, I can see some reason for that. I can see a reason why a judge should not be eligible to political preferment, but to say that a governor should not be permitted to succeed himself, or a secretary of state, or an attorney general, or any of the other State officers enumerated here, I see no good reason why that should be so.

Mr. EICHNOR. I would like to ask Mr. Richards a question. Isn't it a fact in the states where there is no restriction placed upon the officers of the executive department, they have more corruption in the offices than in the states where restrictions are placed?

Mr. RICHARDS. That may be so. It would not necessarily be so.

Mr. MURDOCK (Beaver). Is it not safer to leave this matter in the possession of the people, rather than to restrict them from what might be a great benefit to have a man that has been well tried and that they know has made a good officer, and if he is for candidacy again, why not let them have the privilege of putting him in? I think that is a restriction that is certainly taking from the people a right.

Mr. RICHARDS. I desire to complete my answer to Mr. Eichnor. I was going to remark that if an officer was corrupt the people would not in my

judgment re-elect him. I think that they may be trusted on that point.

Mr. MACKINTOSH. Mr. Chairman, I offer as an amendment that the state auditor and state treasurer shall be ineligible to election as their own successors, and for the reason that while they may be perfectly proper persons, still in view of the positions they hold they ought not to succeed themselves.

Mr. CANNON. Mr. Chairman, I desire to second the motion of Mr. Mackintosh. I believe the officers named should not be eligible, but I do not agree with the motion offered by Mr. Eichnor. I do agree with the idea contained in this proposition of Mr. Mackintosh, that the state treasurer should not be eligible to re-election. I believe a number of the states—quite a large number—have a similar provision to this

The CHAIRMAN. Do you offer this as an amendment, Mr. Mackintosh?

Mr. MACKINTOSH. Yes.

The question being taken on the substitute offered by Mr. Mackintosh, the committee divided and by a vote of 54 ayes (noes not counted), the substitute was adopted.

Mr. RICKS. Mr. Chairman, I move an amendment in line 14, to strike out the word "two" and substitute therefor the word "five." I notice, Mr. Chairman, that most of the states have a provision for five and some of them even ten years as the length of residence that their officers shall have in the state. Seven years in Massachusetts, Michigan five, New Hampshire seven; New Jersey requires that a person shall be twenty years a citizen of the United States and seven years a resident of the state; Maryland requires ten years as a citizen of the state and five years an actual resident, so we can go on. There are a number of the states that have equally long periods of residence, and I think five years is small enough.

The question being taken on the amendment offered by Mr. Ricks, the committee divided and by a vote of 57 ayes (noes not counted) the amendment was agreed to.

Mr. Heybourne was excused by his request.

Sections 4 and 5 were read and passed without amendment.

Section 6 was read as follows:

Section 6. The governor may, on extraordinary occasions, convene the Legislature by proclamation, in which shall be stated the purpose for which the Legislature have been convened, and the Legislature shall transact no legislative business except that for which they were especially convened, or such other legislative business as the governor may call to the attention of the Legislature while in session. The Legislature may, however, provide for the expenses of the session and other matters incidental thereto. He may also by proclamation convene the senate in extraordinary session for the transaction of executive business.

Mr. CORAY. Mr. Chairman, I move to amend section 6 by striking out the word "have" in line 4, and insert "has."

The CHAIRMAN. If there is no objection that can be arranged afterwards.

Mr. Thompson was excused by his request.

Mr. RICHARDS. Mr. Chairman, I move to strike out the word "he" in the eleventh line of section 6, and insert the words "the governor."

The motion was agreed to.

Mr. HART. Mr. Chairman, before section 6 is passed I would like to direct the attention of the members to the clause commencing on line 7, "or such other legislative business as the governor may call to the attention of the Legislature while in session." There is a question in my mind as to what scope that would give the Legislature while meeting in special session. I think the Legislature should do no work except that for which they were specially convened and matters incidental thereto. I move to strike out those words.

Mr. VAN HORNE. It does not seem to me that that ought to be stricken out. Suppose something should come up—another emergency that if it was not the same for which the Legislature had been called, would have been sufficient for him to have called a special session of the Legislature to consider them, would the gentleman say that that should not be presented to the Legislature and that they might not consider that emergency as well as the one for which they were specially called? It seems to me that it would be limiting the power of the Legislature in any session, unwarrantably, because the governor then would have to let that special session go and then have to call another session by proclamation.

Mr. VARIAN. Mr. Chairman, the gentleman from Salt Lake has voiced the sentiment of the committee drafting this provision. That was the idea that it might be safely entrusted to the governor. In case of emergency, authorizing the special session of the Legislature, if there should be something else that had been omitted or had arisen since the call, he might be trusted with the duty of ascertaining whether it was of sufficient importance or not; that is the reason of it. Mr. Van Horne has expressed the idea.

Mr. EVANS (Weber). Mr. Chairman, I just suggest we had an instance in history where a governor of a neighboring state called the legislature together for the purpose of considering the advisability of coining silver for the United States—that it might be done by the state. I say, however, I think the section ought to stand as it now is.

Mr. RICHARDS. Mr. Chairman, I think this ought to be stricken out and for this reason; it is always desired in special sessions that the Legislature shall be restricted to the work for which they have been called. Now, the chairman of the committee says that the only purpose that the committee had in inserting this provision was

that if an emergency should arise during the time the Legislature was in session, the session might be continued to avoid the necessity of calling another session. Now, it seems to me that the inconvenience in calling another session would be far less than to leave the Legislature open to legislate in a general way at a special session. There will be no special inconvenience. The Legislature is in session to-day, called for a special purpose. An emergency arises, the governor issues his proclamation for another session. It begins immediately after the termination of that other session. It is simply the trouble of issuing another proclamation; that is all the inconvenience, whereas, if you strike this out, there is no limitation to the business the Legislature may do at a special session.

Mr. CANNON. I wish to ask Mr. Richards whether a proclamation would not ordinarily be required to be given for a certain length of time?

Mr. RICHARDS. I am not aware of anything in this Constitution that requires anything of the sort.

Mr. CANNON. Is not that the usual course?

Mr. RICHARDS. It may be the usual course, but the reason why it is the usual course is to afford the members opportunity to get together. Now, if the emergency has arisen and the Legislature has assembled, what is the reason a proclamation should not be issued to take effect to-morrow?

Mr. BUTTON. Mr. Chairman, I want to ask the gentleman if the extra session then so called would not give every member his mileage?

Mr. RICHARDS. I think not, I see no reason why it should. They do not travel any extra distance. That would be a matter of legislation. The Legislature might provide that it should or should not, just as it pleased, it does not necessarily follow.

Mr. HAMMOND. Mr. Chairman, when I seconded the motion of the gentleman,

Mr. Hart—or the amendment, I had in my mind the crazy, cranky governor's operation over in Colorado recently—Waite. He kept that state in a furore there for weeks and weeks, legislating on what? I could not tell and I do not think anybody else could, and when they got through the populist operation, they called upon the women to oust him and they did it.

Mr. VAN HORNE. Mr. Chairman, I call Mr. Ricks' attention to the fact that the legislative committee in their draft provided for special sessions that members of the Legislature should be paid per diem and mileage. I take it that it could not easily be controverted, that in a special session the mileage is counted from the place from which the member was elected, and if we have provided in that article that way, it would seem to me that if the committee adopted that article we would have that state of facts; a Legislature convening by proclamation of the governor, in session and emergency arising on which a special session will be called. He will call the special session to take effect perhaps immediately upon the adjournment of the preceding session, and under that each member of the Legislature, without moving from the town at all, would be entitled to the mileage that the member of the Legislature would have upon coming for the first time.

Mr. RICHARDS. Will the gentleman permit me a question? Is there anything to prevent this Convention, when they reach the article that you refer to, from saying there that the mileage shall not be paid unless the distance is actually traveled?

Mr. VAN HORNE. No, sir; I think not.

Mr. RICHARDS. I am only discussing the question as it stands now. We can meet the other contingency when we arrive at it.

Mr. IVINS. Mr. Chairman, if I were certain that this amendment should be

voted down I should not say anything. It seems to me like a distinction with very little difference, and whatever difference there is is in favor of the section just as it stands, because the governor being authorized to call an extra session of the Legislature, would not be expected to bring in other matters before it unless they were matters of importance, and if they were matters of importance that should be considered, he would simply issue another proclamation reconvening the Legislature, so that the section just as it stands covers the ground very fully and should not be changed.

The amendment was rejected.

Section 7 was read as follows:

Section 7. In case of a disagreement between the two houses at any special session with respect to the time of adjournment, the governor shall have power to adjourn the Legislature to such time as he may think proper; provided it be not beyond the time fixed for the convening of the next Legislature.

Mr. ROBERTS. Mr. Chairman, of course I do not know whether the article prepared by the legislative committee will be adopted or not, but I wish to explain that there is in the article that they have submitted to the Convention a proposition to limit the time of a special session, and in view of that fact I think this section would be unnecessary and I would therefore move to strike it out.

Mr. VARIAN. Mr. Chairman, I would remind the gentleman from Davis County that of necessity we will have to make some comparisons between the several articles when we get them all in, and I do not think he will find any conflict on this general proposition, as to time, but the general proposition underlying this article is that he shall have the power to adjourn a special session when they get locked together—one house against the other. That is the primary object. Now, the question of time is a mere incident. If you strike the entire sec-

tion out, you destroy the original purpose. Why not let it rest and arrange that matter in accordance with the subject?

Mr. ROBERTS. With the consent of my second, I will withdraw my motion. Section 8 was read.

Mr. RICKS. Mr. Chairman, I think the legislative committee has reported a similar section which covers the same ground, and is much shorter. I move to strike this out.

No second.

Mr. CORAY. Mr. Chairman, I move that the word "five," in line 13, be stricken out and the word "ten" be inserted in place of it.

No second.

Section 9 was read as follows:

Section 9. When any State or district office shall from any cause become vacant and no mode is provided by the Constitution and laws for filling such vacancy, the governor shall have the power to fill the same by granting a commission which shall expire at the next election and upon qualification of the person elected to such office.

Mr. VARIAN. Mr. Chairman, this section probably will have to receive further consideration. Of course, we do not know what committee will have that in charge in regard to district officers—possibly the legislative committee. We can either pass it or strike it out. I am not advised about that committee.

Mr. HOWARD. Mr. Chairman, it seems to me as though this conflicted with some of the sections that we have already passed. In section 1 it provides that officers provided for in that section shall assume the duties of their office on the first Monday in January next following their election. This says that the governor shall have power to fill same by granting a commission which shall expire at the next election. Now, turn back again to section 2, commencing with line 7, it provides, "But if two or more shall have an equal and the higher number of votes for any

one of said offices." Now, we will turn over here to the article on legislative department. That provides that the Legislature shall meet on the second Monday in January, so that, returning again now to this section under consideration, it will appear that there will be at least one week of a vacancy in that office without any incumbent.

The CHAIRMAN. Have you any motion?

Mr. HOWARD. I have no motion particularly, only to call attention that it conflicts.

Mr. VARIAN. Mr. Chairman, this section does not contemplate an appointment to office originally. It is after an election, when the office is filled, if there shall be a vacancy, that it shall be filled in this way.

Mr. HOWARD. I would take it that in case there were two men who received the same number of votes and it should come to the Legislature, for them to decide it, there would be a vacancy.

Mr. VARIAN. No, sir; I think vacancy includes something else.

Mr. LOW (Cache). Mr. Chairman, I would like to ask Mr. Varian a question. If a provision could not be inserted in section 9 whereby the appointment or commission might be made until the next meeting of the senate, and they did not consent to the appointment, that he should appoint another individual to fill the unexpired term until the election occurred to that office?

Mr. VARIAN. No; I do not understand it in that way. This contemplates the filling of the vacancy until the people elect. It is not to provide for any officers that the governor shall appoint. This section is not dealing with that class of officers. Another section will probable determine that matter. This section is in relation to all district or State officers elected by the people. Now, an election occurs this fall, and a year from now a man

dies or leaves the State, under this section the governor would fill the vacancy until the people would elect to another term.

Section 10 was read and passed without amendment.

Section 11 was read as follows:

Section 11. In case of the impeachment of the governor or his removal from office, death, inability to discharge the duties of said office, resignation, or absence from the State, the powers and duties of the office shall devolve upon the secretary of state, until the disability shall cease, or until the next general election, when the vacancy shall be filled by election. If, during a vacancy of the governor, the secretary of state shall resign, die or become incapable of performing the duties of the office or be displaced, or be absent from the state, the president pro tempore of the senate shall act as governor until the vacancy be filled or the disability cease. While performing the duties of the governor as in this section provided, except in case of temporary disability or absence from the State, the secretary of state or the president pro tempore of the senate, as the case may be, shall be entitled to and receive the salary and emoluments of the governor.

Mr. VAN HORNE. Mr. Chairman, I think it would go to the committee on revision, but I don't exactly like the expression, "during a vacancy of the governor."

Mr. VARIAN. There is something left out there, I think. I move to insert the words, "in the office" between "vacancy" and "of," in line 8.

The CHAIRMAN. If there is no objection those words will be inserted.

Mr. CORAY. Mr. Chairman, suppose that the Legislature should not happen to be in session at the time that this vacancy occurred, the president pro tempore of the senate shall act.

Mr. VARIAN. Yes, it is usual in all senates to elect a president pro tempore. He is a senator and he is a president pro tempore during his term. When the Legislature adjourned he would be a senator for four years and would be president pro tempore of the senate

until he was displaced by another election in the senate.

Section 12 was read as follows:

Section 12. The governor, justices of the supreme court, and attorney general shall constitute a board of pardons; a major part of them, of whom the governor shall be one, may, upon such conditions and with such limitations and restrictions as they may deem proper, remit fines and forfeitures, commute punishments and grant pardons after convictions in all cases except treason and impeachments, subject to such regulations as may be provided by law relative to the manner of applying for pardons, but no fine or forfeiture shall be remitted, and no commutation or pardon granted except after a full hearing before the board, in open session, after previous notice of the time and place of such hearing. The proceedings and decisions of the board shall be reduced to writing, with the reasons therefor in each case, together with the dissent of any member who may disagree, and filed with all papers used upon the hearing in the office of the secretary of state. The governor shall have the power to grant respites or reprieves in all cases of convictions for offenses against the State, except treason or conviction on impeachment; but such respites or reprieves shall not extend beyond the next session of the board of pardons; and such board shall, at such session, continue or determine such respite, or reprieve or they may commute the punishment or pardon the offense as herein provided. In case of conviction for treason, the governor shall have the power to suspend the execution of the sentence until the case shall be reported to the Legislature at its next regular session, when the Legislature shall either pardon or commute the sentence or direct its execution; he shall communicate to the Legislature at each regular session each case of remission of fine or forfeiture, reprieve, commutation or pardon granted since the last previous report, stating the name of the convict, the crime for which he was convicted, the sentence and its date and date of remission, commutation, pardon or reprieve, with the reasons for granting the same, and the objections, if any, of any member of the board made thereto.

Mr. VAN HORNE. Mr. Chairman, I move to amend by striking out after the word "pardon," in line 3, and extending to the word "pardon," at the end of line 26, and insert as follows:

A majority of said board shall, in such manner and under such restrictions as may be provided by law, have power to remit fines and forfeitures, commute punishments, and grant pardons, for convictions in all cases, except treasons and impeachments. The governor shall, except in cases of impeachments or treasons, have the right to grant respites or reprieves, not extending beyond the next session of the board of pardons.

No second.

Mr. EICHNOR. Mr. Chairman, I offer an amendment to section 12, by striking out the first, second—

Mr. VARIAN. Mr. Chairman, I understand Mr. Eichnor has quite an important amendment to offer, and he does not seem to have it written. It is pretty late and in order to give him that opportunity, this being the time anyhow for adjournment, I move the committee now rise.

The motion was agreed to.

The committee then rose and reported as follows:

MR. PRESIDENT:

Your committee of the whole has had under consideration the article on executive, and reports progress.

The Convention then, at 5:02 p. m. adjourned.

THIRTY-SECOND DAY.

THURSDAY, April 4, 1895.

The Convention was called to order at 10 o'clock a. m. by President Smith.

Roll was called and all members found in attendance except Thatcher.

Prayer was offered by Archdeacon Crook of the Episcopal Church.

The journal of the 31st day's session was read, corrected and approved.

By request, Mr. Madsen and Mr. Maiben were accorded the privileges of the floor.

Mr. Christensen presented a petition (file No. 174) signed by Joseph Christensen and 500 others, requesting that the

question of prohibition be submitted as a separate article to a vote of the people.

Referred to the committee on schedule, future amendments and miscellaneous.

The PRESIDENT. Are there any reports of standing committees?

Special orders.

Mr. SQUIRES. Mr. President, I move that we now resolve ourselves into committee of the whole for the consideration of the next article on the calendar.

Mr. THURMAN. Mr. President, I arise to a point of order. That is not in order at this time.

The PRESIDENT. Special orders are called for, and the gentleman moves to go into committee of the whole.

Mr. THURMAN. That is not a special order. That comes up under the head of motions and resolutions. There is no special order before the house at all.

The PRESIDENT. The objection having been made, I think the point is probably well taken.

Third reading of ordinances and propositions to be inserted in the Constitution.

Motions and resolutions.

Mr. SQUIRES. Mr. President, I move we now go into committee of the whole.

Mr. HART. Mr. President—

The PRESIDENT. Mr. Squires has the floor.

Mr. SQUIRES. I move we now go into the committee of the whole for the consideration of the article—

Mr. THURMAN. We call for the regular order.

Mr. EICHNOR. That has not been passed.

Mr. THURMAN. It has not been passed. It was called for and the chair went right on. We say that there is a regular order here.

The PRESIDENT. The chair called for the third reading of ordinances and propositions to be inserted in the Constitution. There was nothing said and

the chair called for motions and resolutions, and there is now a motion before the house to go into committee of the whole.

Mr. RICHARDS. Mr. President, I desire to ask a question for information. When the chair announces the third reading of articles, whose business is it to proceed with the third reading? Is it the duty of any member on this floor to stand up and commence the third reading, or is it the duty of the secretary of this Convention to read the first article that is on the calendar here in third reading? My understanding is that is the procedure, and that is the order we are calling for.

Mr. SQUIRES. Mr. President, I hardly suppose that it is in order without the unanimous consent, but I would like to say something on the subject. The early part of this Convention—

Mr. THURMAN. If the gentleman wants unanimous consent, I object for one. I insist on the regular order.

Mr. SQUIRES. All right.

The PRESIDENT. The secretary will go to the regular order.

By request, the privilege of the floor was granted to Mr. McArthur of St. George.

Third reading of article on municipal corporations.

Sections 1 and 2 were read by the secretary.

Mr. CHIDESTER. Mr. President, I desire to offer an amendment to section 2, by substituting for the word "four," in the eighth line, just after the word "in," the word "six," so that the proposition for removal of county seats shall not be submitted oftener than once in six years, instead of once in four. I believe in the first instance I favored putting in four years, but since reflecting over it I believe that six years would be better.

The amendment was rejected.

Section 3 was read.

Mr. ELDREDGE. Mr. President, I move to strike out all of section 3 after

the word "state," in the sixth line, because I think it belongs to the legislative business and not a constitution proper.

The motion was agreed to.

Section 4 was read.

Mr. ROBERTS. Mr. President, I move that the words in the tenth line of section 6, "with water at reasonable charges," be stricken out so that it would read, "that all such waterworks, water rights, and sources of water supply now owned or hereafter acquired by any municipal corporation shall be preserved, maintained and operated," etc. I think "water at reasonable charges," smacks so much of legislation that to my mind it is almost undignified in a constitution. And I therefore, move to strike it out.

Mr. VAN HORNE. Mr. President, there is only one objection, it seems to me, to that amendment. The question whether it might not be held that municipal corporations would not charge any rates, and that it must be maintained by the population for the supply of its inhabitants, whether it would not preclude the collection of water rates.

The PRESIDENT. Whether the city could make a corner on it?

Mr. VAN HORNE. No, sir; but whether it might not exclude the city from charging water rates if that is stricken out.

Mr. EVANS (Weber). Mr. President, I am very strongly inclined to the idea that the words "reasonable charges," ought to be left as they are, otherwise a city would have arbitrary power to make unreasonable charges to the consumers of water. I do not see any harm—in fact it seems to me it would be a better guaranty to the people to have these words remain. Of course, a city may not be arbitrary in its charges, but it is well enough to say that they shall not.

Mr. VAN HORNE. Mr. President, I move to amend the amendment by

striking out the words "with water," in line 10.

Mr. RICHARDS. Mr. President, I think these words ought not to be stricken out. It is true, as has been suggested by the gentleman who made the motion, that they are to some extent, in one sense, in the nature of legislation, but they are words of restriction of the power of the city, it seems to me, and ought to remain there; but whatever construction might be placed upon those, it seems to me that the striking out of those words would be unfortunate. If, as the gentleman from Salt Lake has stated, it would be possible to construe this section in such a way as to prohibit the city from charging water rates, that would be a misfortune in some of the cities in this Territory. If, on the other hand, as suggested by the gentleman from Weber, the doubt should be the other way, and it be said they might charge water rates and exorbitant water rates, that would be unfortunate. I think the supply of water for domestic purposes for the inhabitants of any city ought not to be made the subject of speculation. The city ought to raise its revenue from some other source than that, and the charges should be reasonable in their character, and such as would be sufficient simply to carry that department of the city, and in view of that, I feel confident that the language as it stands or as amended by the amendment to the amendment could not do any harm. I would prefer to see it stand as it is, although I seconded the gentleman's amendment that he might have an opportunity to speak on it.

Mr. ROBERTS. Mr. President, I don't suppose those words would do any real harm if they were left in. The only thing is that to my mind they are altogether unnecessary and unworthy of a document of this kind—the Constitution of the State providing that municipal corporations shall not charge exorbitant water rates to the inhabitants. To me, sir, notwithstanding what has

been said, it seems an absurdity. I think, sir, that city councils will be elected with reference to carrying out the wishes of the people, and if the people of these municipalities will be able to control that matter, if they go to charging exorbitant charges for their water, I believe that the city council can be re-elected with reference to making whatever changes may be necessary, and I hope that the motion to strike out these words will prevail, for the sake of the dignity of the Constitution, if for nothing else. *

Mr. BOWDLE. Mr. President, there can be no possible harm done by leaving them in. If it should smack a little bit of legislation, it will be but very little. There is a possible construction to be put on the articles when they are stricken out that would be mischievous, and therefore, in view of that, I am in favor of leaving the article just as it is.

Mr. GOODWIN. Mr. President, I think the suggestion of the gentleman from Davis is perfectly in line. The words are surplusage. If I understand it, they never pretend to charge anything for water in these cities, but only to make charges for the expense and labor of carrying the water to people's doors; and if that is true, the words amount to nothing, because if the city council wanted to charge extra for that purpose, they would do it regardless of the words. The article requiring the cities to maintain the system carries with it the implication that the charge shall be reasonable, and I believe that all rates that ever have been made here haven't been a charge for water itself, but the charges put on for laying the mains—people thinking that too much percentage was demanded. As I understand it, the water in this city from City Creek belongs to the city and everyone has a right to it. Every one has his pro rata right to the water, and all charges are for another purpose altogether; that is, when it is carried to a man's house, they charge him for it,

and those three words in the article are simply surplusage. Of course the city council might be dishonored, but I don't think they will be after our experience in this city. There might occasionally a corrupt man get in under the new order of things, but it is not reasonable to charge that in advance even by implication.

Mr. SQUIRES. May I ask the gentleman a question? He is probably familiar with the education we have had in our own city here within a short time.

Mr. GOODWIN. I have never seen a city that there wasn't an agitation of some kind in.

Mr. SQUIRES. A very large increase of water rate, much to the dissatisfaction of the people, and I don't see why those words should not remain in there to prevent any such thing as that.

Mr. GOODWIN. The water rates were not for the water.

Mr. SQUIRES. This talks about the supply. It does not make any difference what they put the cost on, whether to bring the water there, for the use of the water, or what it is, as long as the cost is there.

Mr. GOODWIN. The question is, does this strengthen it at all? Couldn't you attack the authority just as well without this as with it? If you could, then the words are superfluous. I am astonished at hearing the gentleman from Salt Lake make any fuss over water at all. I never knew him to take it. [Laughter.]

Mr. SQUIRES. Mr. President, I take water.

Mr. VAN HORNE. Mr. President, there is something more in this section. It seems to me on careful consideration the leaving of those words in would save any possible question. This section contemplates not only the supplying of inhabitants with water rights that are now under the ownership of the town, or municipality, but it im-

plies the control of such water rights as may be required by such municipality hereafter, and it might well be that the expense of the supply of the city or the town with a company water system could well be taken off of the burden of general taxation, by charging a reasonable rate for the use of that water, in proportion to the amount used, of course, by individuals, until such time as the water supply would be free to the city, and then it might become free to the inhabitants. It seems to me that there can be no trouble about leaving the question of reasonable charges in there. It does not legislate as to what reasonable charges are. It is simply a general declaration that the municipality shall reserve its control over water rights for the supply of its inhabitants. Why not at reasonable charges, if reasonable charges are necessary to the proper administration of a municipal government? If they are not, we can trust the people of our municipality, as I think, to elect such men to the control of their towns or cities as will, whenever the water supply becomes such that the city can give it absolutely free to the inhabitants—to elect such men as will make it free at once. The fact that we should say this does, not preclude them, under such circumstances, from saying, "we have cleared the cost of our water supply; the reasonable charge now will be nothing at all, consequently it shall be free to the people," and undoubtedly the people will insist upon their municipal officers making such declarations whenever the waterworks of a city or town are free of debt incurred through acquiring them and carrying them to the people—

Mr. JAMES. Mr. President, I just want to make a few observations. The city of Salt Lake owns very complete waterworks at the present time. They have cost a great deal of money. We also own at the present time quite a large bonded indebtedness. Now, we

have no provision for a sinking fund or raising any money. Twenty years from now, or less, the indebtedness of this city will come due and we have nothing to fall back up on excepting our waterworks. Now, I happened to be in the east when our last \$800,000 in bonds were placed, and took some little interest in assisting the city to place those bonds.

The question comes, Mr. President, every time when the proposition was made for an investment, "What provision has your city for finally meeting the payment of those bonds?" Mayor Baskin was there at the time and his answer was every time, "It is our waterworks." And the system of waterworks was so explained that it was satisfactory to those people there. Now, let us put anything into this Constitution that would look like the prohibiting of charging water rates in this city, and if you are compelled hereafter to float bonds for any purpose, you will find, Mr. President, that you put an obstacle in the way of selling your bonds at a good rate. For that reason this thing should be left in shape so it will not hinder or stifle legislation, so that we can use our waterworks to provide a revenue to meet our expenses in this city, and other cities in the Territory, so that I am in favor of the section as it stands.

Mr. THURMAN. Mr. President, of course, it may appear like quibbling at words, but I think the amendment ought to prevail, "water at reasonable charges." Now, I take the position that if we leave the balance of the section stand, requiring cities to hold this property as a trust for the benefit of the inhabitants to supply them with water, the courts will always construe the question of a reasonable charge, because it will be a trust fixed and formed by the Constitution for the purpose of supplying the people with water, and they will have no right to charge more than a reasonable

amount. But let us take another view of this, which has not been suggested. The gentleman from Salt Lake (Mr. Van Horne) spoke of a time when the city might want to supply the inhabitants free with water. Suppose that day comes and some stubborn member of the council who would have no other excuse, would say, "you cannot give them water free. The Constitution of the Territory says that you have got to charge for it. It is true you have got to charge reasonably, but it says you must charge." And he makes his point. This may be attenuated, but there are some men who would raise just that question.

Mr. EVANS (Weber.) Do you think that time would ever come when cities would furnish water free?

Mr. THURMAN. I don't know. I was answering Mr. Van Horne; he suggested that the day might come. Now, I say if that day ever comes it would be met by a proposition from somebody that you have got to charge for it, because the Constitution says you must supply water at reasonable charges. I think it ought to go out. It is unnecessary. It is lumbering up this article with words that are unnecessary, and it does not look well to me to see this Constitution here legislating upon the question of reasonable charges of water for the people unless there is some necessity for it.

Mr. CREER. Mr. President, I am opposed to striking out those words, "reasonable charge." The very fact that has been mentioned here that there will never come a time but what there will be some charge for supplying the city with water—there will be the annual expense at least of bringing it from the living stream and distributing it to the cities, and it seems to me that that would prevent the officers of the municipality from creating a fund and making a revenue from this particular branch of the municipal government, and not only that, but I would be in favor

of making that still stronger so as to make it read "with water at uniform and reasonable charges," because that would then prevent a city council from making a distinction or discriminating. I think that this should be uniform and it should be so fixed that they would be deprived of making a revenue from it, as we know is sometimes done by licensing various lines of business. They may make a business out of this and make unreasonable charges, and I think they not only ought to be confined to be reasonable simply, at the cost, but they also should be made to be uniform so that they cannot discriminate or make a discrimination between the inhabitants.

Mr. THURMAN. We may have prohibition and we may soon need water without any expense.

Mr. CREER. Very true. I do not think we ought to leave the question of water open to the principle that liquor is. And we know many of the cities make quite a revenue from licensing liquor and by placing this restriction there we can never make water parallel with intoxicating drinks. That ought to be enough to pay expenses and it ought to be uniform, because many cities are deriving their water from various sources and they are inclined to make distinctions that ought not to exist. It is simply a charge—a water rate, and it seems to me we ought to make it definite and distinct in the Constitution in order that it may be understood, and I am not only in favor of making reasonable charges, but uniform and reasonable charges.

Mr. BUYS. Mr. President, if I understand the motion of the gentleman from Salt Lake, to strike out the words "with water" would be equivalent to letting the words "with water" stand and leave the motion of the gentleman from Davis County "reasonable charges." If this amendment should stand, the words "with water" are stricken out from the words of the mo-

tion of the gentleman from Davis, and would leave his motion to strike out "reasonable charges" only.

The PRESIDENT. If the amendment prevails it seems to me that we are done with that amendment. That would be the impression of the chair.

Mr. BUYS. It seems to me the gentleman from Davis offered the amendment (move to strike out the words), "with water at reasonable charges." The gentleman from Salt Lake moved to amend the amendment by striking out the words, "with water." As I understand it, that would strike out the words, "with water," from the amendment of the gentleman from Davis, and would leave his amendment then to be voted upon, "at reasonable charges." It would be equivalent to letting "with water" stand, striking it out of his motion to amend.

The PRESIDENT. The chair's ruling in regard to that matter would be that in striking out "with water," the amendment is adopted and that the other would stand without any action.

Mr. SQUIRES. We would then have to vote down the amendment of Mr. Roberts to have the one we have adopted of any avail.

Mr. IVINS. Mr. President, I just want to say that after listening to all this debate my impression is we had better pass this section just as we passed it in committee of the whole or else strike it all out. I hope it will remain just as it is.

The PRESIDENT. The question then is on the amendment to strike out the words "with water."

The amendment was rejected.

The PRESIDENT. The question now reverts on the motion of Mr. Roberts to strike out "with water at reasonable charges."

The amendment was rejected.

Mr. ELDREDGE. Mr. President, I would move to strike out in line 10, at the end of the line, the word, "that" and in line 12 the word "any."

The amendment was rejected.

Mr. ELDREDGE. Mr. President, I move to strike out all the words after the word "supply," in the fifteenth line.

The amendment was rejected.

The President here called Mr. Varian to the chair.

The PRESIDENT pro tem. The question is upon the final passage of the article relative to counties, cities and towns.

The roll being called the vote was as follows:

AYES—92.

Adams	Larsen, C. P.
Allen	Lemmon
Anderson	Lewis
Barnes	Lowe, Wm.
Bowdle	Lowe, Peter
Boyer	Low, Cache
Brandley	Lund
Button	Maeser
Buys	Maloney
Call	Maughan
Cannon	McFarland
Chidester	Miller
Christiansen	Morris
Clark	Moritz
Coray	Murdock, Beaver
Corfman	Murdock, Wasatch
Crane	Murdock, Summit
Creer	Page
Cunningham	Partridge
Cushing	Peters
Eichnor	Peterson, Grand
Eldredge	Peterson, Sanpete
Emery	Preston
Engberg	Raleigh
Evans, Weber	Richards
Farr	Roberts
Francis	Robertson
Gibbs	Robinson, Kane
Goodwin	Robison, Wayne
Green	Ryan
Hammond	Sharp
Hart	Shurtliff
Haynes	Snow
Halliday	Spencer
Heybourne	Squires
Hill	Stover
Howard	Strevell

Hughes

Hyde

Ivins

James

Johnson

Jolley

Kerr

Kimball, Salt Lake

Larsen, L.

Symons

Thompson

Thoreson

Thorne

Thurman

Van Horne

Varian

Warrum

Williams.

NOES—0.

ABSENT—15.

Driver

Evans, Utah

Kiesel

Keith

Kearns

Kimball, Weber

Lambert

Mackintosh

Nebeker

Pierce

Ricks

Thatcher

Wells

Whitney

Mr. President.

Third reading of article on amendments was then taken up.

Mr. HART. Mr. President, I would move to strike out the word "three" in line 11, and the word "two" inserted in lieu thereof.

The amendment was agreed to.

Section 2 was read.

Mr. BOYER. Mr. President, I move to strike out the whole of section 2.

The motion was rejected.

Section 3 was read.

Mr. ROBINSON (Kane). Mr. President, in order to make it uniform with the law in regard to the adoption of the Constitution in the first place, which requires a two-thirds majority of the State, I would amend section 3 by inserting before the word "majority" the words, "two-thirds."

No second.

The PRESIDENT pro tem. The question now recurs upon the passage of the article as amended.

Mr. EVANS (Weber.) Mr. President, I just want to make an inquiry whether that section 3 fully covers that article. This article is upon amendments to the Constitution, and the section simply provides that any constitution adopted by such convention shall have no valid-

ity, etc. I want to make the inquiry whether that should not also apply to amendments which might be submitted to the people?

Mr. VAN HORNE. Mr. President, to bring that matter up, I move that the word "constitution" be stricken out and the word "amendments" be inserted.

No second.

Mr. MALONEY. Mr. President, I move that the words "or amendment" be inserted after the word "constitution."

Mr. HART. Mr. President, I think that matter is covered by section 1. The first section refers to the amendments proposed by the Legislature and then passed by a majority of the electors voting to sustain them. This last section, section 3, refers entirely to the ratification of a constitution that has been framed by a constitutional convention. I therefore am opposed to the amendment.

Mr. RICHARDS. I desire to state this: Suppose a constitutional convention we recalled in pursuance of section 2 to revise the Constitution, but after deliberation came to the conclusion that it was not necessary to revise the entire Constitution and was to submit an amendment. Then what would become of that amendment? I think the amendment proposed by the gentleman from Weber should prevail.

Mr. SQUIRES. Mr. President, I would like to inquire what is meant by the last line of section 3, "voting at said election."

The PRESIDENT pro tem. The chair is unable to answer.

Mr. GIBBS. I understood that the word "said" was stricken out and "at the next general election" inserted.

Mr. SQUIRES. Mr. President, I move to strike out the word "said," in the last line of section 3, and add the words "the general election."

The PRESIDENT pro tem. The motion cannot be entertained now. It is

not germane to the amendment already pending. The question is upon the insertion of "or amendment" after the word "constitution," in line 3.

Mr. EVANS (Weber). I move as an amendment to that amendment to insert the words "or revision thereof," so that the section would read "any constitution, amendment, or revision thereof."

Mr. KERR. Mr. President, I cannot see that it is necessary to insert the words contemplated by the amendment. Even if there are not more than two or three amendments to the original Constitution, that would be the revised constitution adopted by the convention as they adopted the constitution as revised. They are not forming a constitution, but they are revising an old one, and after revision it seems to me that constitution is the one to be submitted to the people for their adoption or rejection. I cannot see the necessity of inserting the words proposed.

Mr. EVANS (Weber). Will the gentleman from Cache permit me a question?

Mr. KERR. Yes, sir.

Mr. EVANS (Weber). I desire to withdraw, with the consent of my second, the amendment I first offered. I think on reflection the first section covers it all.

The PRESIDENT pro tem. Does Mr. Maloney insist upon the amendment offered by him?

Mr. MALONEY. I do.

Mr. SQUIRES. Mr. President, I understood that the gentleman from Weber, Mr. Maloney, accepted this amendment offered by Mr. Evans. That makes it a part of his original motion.

The PRESIDENT pro tem. Mr. Evans was allowed by the house to withdraw his amendment and now Mr. Maloney insists upon the original proposition. The question is now upon inserting the words, "or amendment."

The amendment was agreed to.

Mr. SQUIRES. Mr. President, I now

move that we strike out the word "said" in the last line, and insert "the next general."

Mr. CREER. Mr. President, I see no necessity of that amendment. The whole matter is predicated upon the action of that convention. It covers the whole business.

Mr. SQUIRES. Do I understand that the words in section 2 refer to the question of whether a general election shall be held or not? That cannot possibly be referred to in section 3, which would come a year later.

Mr. CREER. I will concede that.

Mr. VAN HORNE. Mr. President, I move that we strike out of section 3, after the words "of the state," the words, "voting at said election."

Mr. CANNON. Mr. President, I would like to offer a substitute if it is in order. I offer as a substitute to strike out all after the word "until" and insert in place thereof the words "notice by publication has been given and the change proposed has been approved as provided in section 1 of this article." The section will then read, "and constitution or amendments adopted by such convention shall have no validity until notice by publication has been given and the change proposed has been approved as provided in section 1 of this article."

No second.

The PRESIDENT pro tem. The question comes now upon the motion of Mr. Squires.

Mr. MALONEY. May I ask the gentleman from Salt Lake, is that intended to prevent it being submitted at an election other than a general election?

Mr. SQUIRES. That was my idea, to save the expense of a special election on this subject. The matter contained in the substitute offered by Mr. Cannon is already provided for—the method by which the amendment shall be submitted to the people and voted upon in section 1.

Mr. LOW (Cache). Mr. President, I agree with Mr. Squires just now. I believe that section 1 covers all arrangements for amendments. Section 2 provides for revision. Now, we are trying to provide in section 3 to cover amendments and revision. That is the view I have on it. I would like to have gentlemen of the committee explain their idea on the subject.

Mr. VAN HORNE. Mr. President, it seems there are two methods of amendment provided here. One is by propositions in houses of the Legislature, submitting an amendment to the electors of the State, and it provides the manner in which it shall be submitted and how the amendment shall be published and for how long.

The other is a distinctly separate branch of amendment. It provides for the Legislature by a two-thirds vote calling for a constitutional convention to amend or revise the Constitution, and in that way, there it delegates to the constitutional convention the drafting of the proposed amendments. In the other case they were drafted directly by the Legislature and submitted to the people. The other constitutional convention itself must propose those amendments, and then the last section becomes applicable to that method of amendment and not the first, and should contain in itself all that is necessary to make the validity of the amendment proposed or revision proposed or constitution adopted by the constitutional convention.

Mr. CANNON. Mr. President, I would like to inquire why it is not proper to give notice of a revision proposed by a convention as well as that proposed by a legislature? I cannot see myself clearly the distinction between the two unless it might possibly be that no notice is needed of a convention specially called. I do not understand from the language of the section as it is proposed to be amended by the gentleman from Salt Lake County, that any

notice would be given of the proposed change as proposed by a convention, and I think such notice should be given.

The amendment of Mr. Squires was agreed to.

The amendment of Mr. Van Horne was withdrawn.

Mr. HART. Mr. President, I move to strike out the word "it" in line 2, and insert in lieu thereof "the same."

Mr. VAN HORNE. Mr. President, I move to strike out the words "it has been," leaving it to read, "any constitution or amendment adopted by such convention shall have no validity until submitted to and adopted by a majority of the electors voting at the next general election."

The amendment was agreed to.

Mr. EVANS (Weber). Mr. President, I am opposed to that, and I am going to move a reconsideration of the vote wherein I voted to insert the word "amendment."

The PRESIDENT pro tem. The gentleman cannot make that motion now.

Mr. EVANS (Weber). I regret to say that I had not familiarized myself with this first section, and this whole article, because I did not have it upon my desk in time.

Section 3 has reference especially to a convention which is called for the purpose of revising or framing a constitution. That convention would have no right to make any amendment at all. That section ought to stand just as it was with the words added by the amendment as made by Mr. Squires; then it will be consistent with the whole article, and I shall vote against this amendment.

Mr. VAN HORNE. Suppose it was left just as it is with the amendment of Mr. Squires, and the words "it has been" were still stricken out, would it change the sense of the thing at all? Are not they superfluous even under that view of the case?

Mr. EVANS (Weber). That would not do any harm so far as that is concerned.

Mr. ELDREDGE. Mr. President, I move to strike out the word "any," at the beginning of section 3, and substitute the word "no," and then strike out the word "no" just before the word "validity" in the second line, so that it will read, "no constitution or amendment adopted by such convention shall have validity until submitted," etc.

The motion was agreed to.

Mr. EVANS (Weber). Mr. President, I move to reconsider the vote by which the words "or amendment" were added after the word "constitution."

Mr. THURMAN. Mr. President, I am not ready to vote for this motion to reconsider, without knowing why I should vote in that way. The article provides for voting upon the question of amendments of this Constitution from time to time. It may be that the only thing submitted to the people or to a convention will be the question of whether a certain amendment shall be adopted or not?

Mr. EVANS (Weber). The only purpose I have on that is, that section 1 makes explicit mention of amendments to the Constitution to be submitted to the people by a certain vote of the Legislature; this section provides the method by which a new constitution might be made by a constitutional convention or by which the Constitution might be revised.

Mr. THURMAN. "Or amended." That is the trouble. It provides for both phases, for a thorough revision of the Constitution, or possibly for a single amendment. Now, the amendment which we have adopted here says, "No constitution or amendment adopted by such convention shall have validity," etc. I think it is right as it is. There is no reason for reconsidering, that is my understanding of it.

Mr. SQUIRES. I would like to ask the gentleman from Weber, if, with the

words "or amendment" stricken out, it would be necessary to publish to the people the entire Constitution before submission to the people, whereas, if there was a simple amendment to offer, great expense would be saved in notifying the people by just publishing the amendment?

Mr. EVANS (Weber). I will answer that by saying that the Legislature never would call a convention together for the purpose of making a simple amendment to the Constitution. That would be done by a two-thirds' vote of the members of the Legislature, and that would be done without a convention.

Mr. RICHARDS. Mr. President, I agree with my friend from Weber, that the Legislature would never call a convention for the purpose of making a single amendment, but suppose a convention were called for the purpose of revising or amending the Constitution, with the expectation that a general revision would take place, and after proper deliberation that convention should come to the conclusion that it was not desirable to prepare a new constitution, but that one or two, or any number of amendments could be prepared, that would answer the purpose, and would be better than submitting a new constitution—in other words, that they would report their work in the form of amendments instead of in the form of a revised constitution, now I say that under that Constitution they would have the right to do that thing, and if they did it, then this section 3 would not provide for the submission of those amendments, and I think that the section is right just as it is, and I hope the motion will not prevail.

Mr. SNOW. Mr. President, I move to strike out the words, "have had validity," in line 2, and insert "be valid."

The motion to reconsider was withdrawn.

The amendment of Mr. Snow was rejected.

Mr. FARR. Mr. President, it being in order to cut down and make things very concise, I move that the words "of the state" be stricken out, as being entirely useless and of no account.

The amendment was rejected.

Mr. ELDREDGE. Mr. President, I would move to strike out from section 3 all after the word "state," in line 4, that is striking out the words "voting at the next general election." And leave it to the Legislature to provide at what election they should vote.

No second.

The PRESIDENT pro tem. If there are no further amendments to this section, the question is upon the passage of the entire article.

The roll was called and the vote was as follows:

AYES—91.

Adams	Lewis
Allen	Lowe, Wm.
Anderson	Lowe, Peter
Barnes	Low, Cache
Bowdle	Lund
Boyer	Maeser
Brandley	Maloney
Button	Maughan
Buys	McFarland
Call	Miller
Cannon	Morris
Chidester	Murdock, Beaver
Christiansen	Murdock, Wasatch
Clark	Murdock, Summit
Coray	Page
Corfman	Partridge
Crane	Peters
Creer	Peterson, Grand
Cushing	Peterson, Sanpete
Eichnor	Pierce
Eldredge	Preston
Emery	Raleigh
Engberg	Richards
Evans, Weber	Ricks
Farr	Roberts
Francis	Robertson
Gibbs	Robinson, Kane
Goodwin	Robison, Wayne

Green	Ryan
Hammond	Sharp
Hart	Shurtliff
Haynes	Snow
Halliday	Spencer
Hill	Squires
Howard	Stover
Hughes	Strevell
Hyde	Symons
Ivins	Thompson
James	Thoreson
Johnson	Thurman
Jolley	Van Horne
Kerr	Varian
Kimball, Salt Lake	Warrum
Larsen, L.	Wells
Larsen, C. P.	Williams.
Lemmon	

NOES—0.

ABSENT—16.

Cunningham	Lambert
Driver	Mackintosh
Evans, Utah	Moritz
Heybourne	Nebeker
Kiesel	Thatcher
Keith	Thorne
Kearns	Whitney
Kimball, Weber	Mr. President.

The article was then declared adopted and referred to the committee on compilation and arrangement.

Mr. EMERY. I move to take a recess until 2 o'clock p. m.

Mr. SQUIRES. Mr. President, I do not think we ought to take a recess at a quarter to twelve o'clock. What is the object of it? What is the purpose of it? We have plenty of work to do. Now, if there can be any good reasons why we should take a recess at this hour of the day and this stage of the business, I am perfectly willing to vote for it, but to pass a thing through like this without any reason being assigned why we should stop this work, after the slow progress that we have made, I am opposed to it. It seems to me there must be some reason at the back of it that gentlemen do not disclose. We generally run until half-past twelve o'clock, which is a very suitable hour

for lunch, and here we are throwing away three-quarters of an hour of our usual time. I am in favor of going on with our work.

Mr. EMERY. It is only ten minutes.

The question being taken on the motion, the Convention divided and by a vote of 53 ayes to 36 noes, the motion was agreed to, and the Convention then took a recess until 2 o'clock p. m.

AFTERNOON SESSION.

The Convention re-assembled at 2 o'clock, President Smith in the chair.

The PRESIDENT. The question has been asked of me whether the Convention could possibly adjourn over Saturday, as it is Arbor day. The gentlemen may just consider it and we will act upon it later.

Mr. HART. Mr. President, it is a legal holiday, and the rules provide for no session on a legal holiday. That is already provided for unless we suspend the rules.

Mr. SQUIRES. Mr. President, what is the order of business?

The PRESIDENT. The order of business, as the chair understands it, is the third reading of the article on elections and rights of suffrage.

Mr. SQUIRES. Mr. President, I move that action on this article be postponed until the 15th of April. There are several reasons why I favor this. One is that—

Mr. CANNON. I would like to ask a question. Is your motion to suspend the rules?

Mr. SQUIRES. No, sir; to postpone to a day certain of the rules.

Mr. CANNON. Can you postpone without suspending the rules?

Mr. SQUIRES. To postpone to a day certain is out of the rules. There are a number of delegates to this Convention who are not present; who are excused from being present by the action of the Convention itself. There are a number of others who are absent without the consent of the Convention, but who,

undoubtedly, would like to be heard and recorded upon this article when it reaches final consideration. But aside from that, in view of the long and ardent debate upon the subject in the Convention during the days that have passed, I have noticed an aroused public sentiment in this immediate vicinity which I have no doubt extends over the Territory, and I know, not from newspaper report, but from consultation with gentlemen of the committee, that petitions have been sent or are being sent throughout every postoffice in the Territory to leading citizens all over the Territory, with a view of getting an expression of them as to the wisdom of submitting this first section of this article as a separate article. I hold in my hand one of those petitions, which reads as follows:

The undersigned men and women of Utah respectfully petition the Constitutional Convention to submit to the people in a separate article the question of suffrage for women.

I believe, sir, that that is a fair proposition, that in view of this movement on the part of the people, it would be unwise and unseemly on a part of this Convention to rush to a final action of this question before the people can be heard from. I grant you that we have been in session here for a month, and that the people have not been heard by petition or remonstrance upon this side of the question. I cannot explain the reason why they have waited until this hour before making their move, but I do realize, sir, that the movement is general—more general than some gentlemen upon this floor may understand, and I make this motion, not speaking for myself alone, but speaking for a large number of my constituents, whom I have met and conversed with upon this subject; and in answer to letters that I have received from those portions of my district that I have not been able to reach. I hope, Mr. President, that in fairness, with the same sentiment pre-

vailing here which prevailed when the minority stood and asked for a due share of the time to consider this question—I do trust, sir, that this proposition will prevail, and that we shall take due time to consider this matter carefully and to allow our constituents all over this Territory to be heard from upon the other side of this proposition.

Mr. EVANS (Weber). Mr. President, I want to rise to a point of order. It seems to me that the motion is out of order. The Convention is now engaged in the business of third reading of ordinances and propositions to be inserted in the Constitution. If the gentleman desires to make this motion so that it would suspend the rules, I would have no objections and would not raise the point of order. I raise it now before any further speeches are made. I refer to rule 3, the 7th subdivision, as to the order in which business is to be transacted in the Convention.

Mr. VARIAN. I would ask the gentleman a question before he sits down. Is it not true that when the order of the day is reached and the business under that order is within the jurisdiction of the Convention, it can dispose of it in whole or in part; that it can postpone it indefinitely, that it can lay it upon the table, that it can vote it down or up? That is a point I make—having jurisdiction, the Convention can act upon it by postponing it to a day certain?

Mr. EVANS (Weber). That is true. I simply remind you, Mr. President and gentlemen of the Convention, that the other day when we took a vote on the question of setting the elections and rights of suffrage article for a special order, it was then ruled that we require a two-thirds majority, and such a majority was not secured, and for that reason the order was not made. This motion is equivalent to making this a special order for the 15th day of April.

Mr. VARIAN. Is it not true that this is not an equivalent motion to make

this a special order, because making a special order for a day certain, and it fixes or disturbs and suspends operation of the general rules on that day, and therefore requires a two-thirds vote, as laid down by Mr. Roberts. A motion to postpone to a day certain, is it not true only postpones the consideration for that day and lets it come up under the regular order for that day, without disturbing any order of business?

Mr. EVANS (Weber). That is true. I grant it, but we are disturbing the regular order of business when we postpone this regular order of business. It seems to me just the same as though we were asking to take it out of its regular order and set it at a regular day.

Mr. SQUIRES. May I ask the gentleman a question? Would he consider that a motion to lay this upon the table would be in order now?

Mr. EVANS (Weber). Certainly it would.

Mr. SQUIRES. Would not that disturb the order of proceeding? Would a two-thirds vote be necessary for that proposition?

Mr. EVANS (Weber). We would simply lay it on the table. That would be equivalent to disposing of it without further action. Of course it would have to be taken up again, but an order to lay upon the table is usually made to kill the particular proposition which is before the convention. I am not expressing my opinion as to whether I would vote with the gentleman for the postponing of it or not, I am simply raising the point of order.

The PRESIDENT. The chair is of the opinion that this matter could be brought up by a motion in the form in which the gentleman proposes to bring it, and is debatable here. The point of order is not well taken, would be the opinion of the chair.

Mr. CHIDESTER. Mr. President, the rule reads like this: "Every proposition

or other matter reported from committee of the whole for third reading by the Convention shall be placed upon the Convention calendar, and be considered and acted upon a subsequent day."

Mr. VARIAN. Is there anything before the house except the motion to postpone?

The PRESIDENT. The motion is brought before the house as I understand it.

Mr. VARIAN. The point of order has been ruled upon, as I understand it?

The PRESIDENT. The gentleman is speaking to that section as I understand it. It is debatable.

Mr. CHIDESTER. As to the first proposition raised by my friend Mr. Squires that a number of delegates are away from the Convention, I desire to say this, that it is presumed that they have no right to be away. It is their duty to be here, and it is no good ground for the postponing of a question to say that there is a number of delegates away. Now, then, we have not crowded this proposition here for this particular time, but we have waited until it has come along in its regular order, and I say now to postpone this—that any member that votes to postpone this votes against woman suffrage. That is my opinion of it, and I do not consider that it is right and proper to delay the matter in any such a way as that. I believe it has been reached in a right and proper way, and then it should be considered now, and not be postponed a great length of time that Mr. Squires desired. And the other proposition that he makes that we wish to hear from our constituents, is, in my opinion, badly taken. I heard from mine before I came here, and I believe that every man heard from his constituents in that regard, and that when they came here they prepared then to go to work upon the proposition, and especially one that was so well understood as this one, and for

my part, that does not sound very well to me, and I do not favor this postponement, but I will insist upon the regular order of business.

Mr. CORAY. I call for the previous question, Mr. President.

Mr. THURMAN. Mr. President, I trust the gentleman will not insist upon the previous question just now. I admit that it is in order, but I hope the gentleman will withhold it and not insist upon it.

The PRESIDENT. There was no second to it.

Mr. THURMAN. While I am on my feet, I will make a few remarks in opposition to the motion. I know that there has been some feeling in relation to this question since the day that it first came before the Convention. It has been a matter upon which we have divided in a particular way. Not as parties but as individuals. There has been great latitude. I believe the mover of this motion will admit that the majority so far on this question (I do not say the majority to-day, for I do not know how we stand,) but I think that the gentleman will admit that the majority have not been unfair in the courtesies they have extended to the minority. In the first place, we had a debate of five days in the committee of the whole and remarkable courtesy was shown to my esteemed and able friend from Davis County of allowing him to close the debate, a thing I presume that was never done in the world before in a legislative body where there was the same amount of feeling, and positive feeling, as existed in this case. That was given to him as a courtesy, not as a right, and he closed the debate in the committee of the whole with a half-day's speech. We were all edified. Now, I say that it would be undignified, it would be unprecedented, I lay that down. Gentlemen may search the record—it would be unprecedented for a dignified body like this to defer action when the time comes in the regular way to hear

what somebody may possibly have to say on the outside. Let me suggest, gentlemen, what we ought to do, and I say this in earnestness as I say it in candor, if it be true that it turns out that the democratic party and the republican party on this floor err as to the true sentiment of the people, and that becomes manifest to us, before this Convention adjourns that in whatever respect we have been deceived and misled by a mistaken idea of what their sentiment is, let us say that as brave men, as honest men, we will stand up, no matter what position we have taken here, and move to reconsider anything that has been done improperly or hastily. I do not know what the vote may be on the first section of this article. I stand here this afternoon ready to take up the question and let the result be what it may, and then, gentlemen, I say to you now—and you will find that I mean what I say—that if it be true that the honest sentiment of the people of the Territory as it may be made manifest to us hereafter before we close our work, is opposed to what we have done, I will join with you in a motion to reconsider. But there have already been enough things done in this body that tinge of what I believe to be undignified and improper. Motions have been made here to adjourn, to take this Convention off to the theater or to some other building, making of ourselves a spectacular concern. We have done these things under the heat of the moment, without thought. Why, gentlemen, we are in as dignified a capacity to-day as men can possibly hope to act in. I agree with my friend from Garfield, and I want my friends on this question to understand that a vote to postpone this question means, whether intentional or not, in effect a vote against woman suffrage. Now, I am in favor of disposing of this matter. It has agitated the minds of the members of this Convention long enough, and if, I repeat again, we find we have

done wrong, or we have not understood the sentiments of the people, we can undo what we have done, but at the present time let us dispose of this whole business by going ahead with the regular order.

Mr. MURDOCK (Beaver). Mr. President, I am opposed to the motion to postpone, for the reasons are these: There is distrust on this floor in regard to the matter. I want that matter settled with them. There is perhaps a distrust throughout the country, and they will have a chance to know the situation if we go to work and consummate the matter right in the time when it should be done. I come from a county that I suppose that I represent and I knew the feelings of the people when I left and I have heard nothing to the contrary from that county, and I presume every other member here knew the sense of the community with which they are associated, and knew their feelings, and I presume that they have not heard anything to contradict the fact that they are here as representatives of the people, putting all these matters in their hands to do such work and perform such labors as will be suited for the coming State Constitution, and this is one of the principles, and why should we stop and hesitate and wait for something to come from the outside to change our ideas? I know there is a distrust and I know where it emanated from; it emanated from this floor and it has gone broadcast throughout the country, through the papers, for and against, perhaps, and I am ready to vote on the subject when it comes up.

Mr. CORAY. Mr. President, I call for the previous question.

Seconded.

Mr. HALLIDAY. Mr. President, I have not asked the privilege of speaking on this floor since I have been in this Convention. If I can be recognized I would like to make a few remarks.

The PRESIDENT. The gentleman will proceed.

Mr. HALLIDAY. I do not know what other delegates in this Convention may have learned from their constituents before they came here, but I know what I learned from mine before I was elected, and from the day that I was elected the announcement was made; my constituents have not changed their minds. If they have they have not let me know. I am opposed to the motion and I hope it will not carry, from the fact—it looks to me like it savors a good deal of delay, in order to change the phase of tactics in a certain direction to defeat the move of woman suffrage. I am opposed to the motion? I was elected upon a platform that plainly—the plank was inserted “we say the women shall have equal rights with men—common suffrage.” And my mind has not changed since and I want to go on record that I am opposed to this delay. I am opposed to such—I call it wire-working; I call it a political trap, in order to gain time to change the ideas of men. Now, you might stay here until the 4th of July, and I might listen to the best orators there is in the United States, I do not believe there is one that would change my opinion in regard to this matter, but it seems that there is an opinion that men’s minds can be changed and they will forego their promises to pander to the wishes of the outside. I know what the outside felt and said in regard to me from the county they came from, and they have not said “do not stop, do not falter,” but they have said simply, “go ahead and do your duty like a man,” and I hope the motion won’t carry, gentlemen. I am ready to vote on the question.

Mr. ROBERTS. Mr. President—

The PRESIDENT. The previous question, gentlemen, has been moved.

Mr. SQUIRES. As the mover of that motion I would like to be heard for a moment.

The PRESIDENT. I think it is but just to the gentleman.

Mr. SQUIRES. My friend from Garfield made the assertion that a vote—

Mr. THORESON. Mr. President, the previous question has been called for.

The PRESIDENT. The gentleman was not recognized.

Mr. SQUIRES. I challenge any gentleman on this floor to make that statement in regard to myself personally, that I am opposed to woman suffrage. It was not with any such object that I made the motion to postpone. I believe that I have given good reasons why this Convention should pause at this point.

Mr. THURMAN. May I interrupt you a moment? You misunderstood me, if you understood me to say that anyone was opposed. I said the vote in effect would be a vote against woman's suffrage.

Mr. SQUIRES. Mr. Chidester made it upon broader grounds, and it was his remark that I challenged and not yours. I am in favor of woman suffrage, if it shall come before them so that they will have a chance to say whether they want it or not. I had believed that the people from the outside wanted woman suffrage. I believe so still. Are the gentlemen upon this floor, who are the advocates of that movement, afraid to trust this matter to the people? Are they afraid to submit it as a separate article in this Constitution? The gentleman who has just taken his seat seems to be afraid that the people will vote it down if they get an opportunity to do so.

Mr. HALLIDAY. I am not afraid of my constituents.

Mr. SQUIRES. If there is such a feeling in this community, it is not fair, or wise or just for this Convention to attempt to force it upon the people. The gentleman from Beaver (Mr. Murdock), tells us that he comes from a county where he is acquainted with the sentiment of the people. I would like to ask

him if under the aroused sentiment which has come to the people of this county, the people of Beaver County should take action similar to the action taken in Salt Lake County, if he would not be willing to wait to hear from the people who may possibly have changed their minds upon this subject?

Mr. MURDOCK (Beaver). Yes, but I must first hear that they want it.

Mr. SQUIRES. That is it exactly. We want to hear and we want time to hear, and we want that to be accorded to us.

Mr. MURDOCK (Beaver). But until then I am ready to vote.

Mr. SQUIRES. How can you hear if you decide the matter this afternoon, without giving them an opportunity? I told you in my first remarks that the committee that had this matter in charge was sending this petition to every postoffice in this Territory so that the people of all the Territory might be heard upon the proposition, and I believe this is only fair. The gentleman from Utah (Mr. Thurman), has told us that we are in a dignified position to-day, qualified to act upon this matter intelligently, and that if we shall find later on that we have made a mistake, we can move to reconsider, and he will join us in that movement. I ask you, gentlemen, which is the more dignified, to pause at this point and defer our action, and not make any mistake, or to take some action which we shall afterwards find is a mistake and have to reconsider it? I am in favor of this motion, and I hope sincerely it will prevail in the interest of fairness and justice to all the people of Utah.

Mr. CREER. May I ask a question? Is this committee constituted of delegates from this Convention?

Mr. SQUIRES. No, sir.

Mr. CREER. I would like to ask the gentleman has he any objection to naming that committee?

Mr. SQUIRES. I do not know all of

them. I will name one of them that I think of. I will name Grant H. Smith, of Salt Lake City, one of our judges here in the police court, and he represents a large constituency in this county. Gentlemen, do not rush headlong into this thing. Give these people who think they have a right to be heard upon this question the right to be heard.

Mr. CORAY. I insist upon the previous question.

Mr. KERR. I arise to a point of order.

Mr. CORAY. I insist on the previous question. If the chair rules I am out of order, I appeal to the house.

The PRESIDENT. The previous question is in order if there is a second.

Mr. KERR. Mr. President, I arise to a point of order. My point of order is this: in rule 8 on page 19 of the standing rules of this Convention there is a statement that no member rising to debate, to give a notice, make a motion, or present a paper of any kind shall proceed until he shall have addressed the President and be recognized by him as entitled to the floor. I had addressed the president and desired to speak upon this question, and the gentleman who moved the previous question did not even address the president, neither was he recognized by the president, therefore the motion is out of order.

The PRESIDENT. The president has just recognized him.

Mr. CORAY. The president recognized me twice.

Mr. KERR. Other gentlemen were on the floor.

Mr. JAMES. Mr. President, I arise to a point of order.

The PRESIDENT. Shall the main question be now put, gentlemen?

Mr. JAMES. I arise to a point of order. I wish to say to Mr. Kerr, at the time the gentleman from Juab County arose I was on the floor, Mr. Van Horne was on the floor and demanded the attention of the chair, and the motion was put, and Mr. Roberts, of Davis

County, was on the floor demanding the attention of the chair.

Mr. CORAY. I call for a ruling of the chair.

The PRESIDENT. The ruling of the chair is that Mr. Coray was the recognized man, and had the right to move the previous question.

Shall the previous question be put?

Mr. VARIAN. I call for the ayes and nays.

Mr. HALLIDAY. Mr. President, I do not know that I have got this thing clear. I want to know how I vote at this time?

The PRESIDENT. The ayes and nays are called on the previous question.

Mr. RICHARDS. I understand that the vote we are now taking is this: That if we vote aye, it means that we are ready to vote on the question of postponement. If we vote no, it means we want to hear further debate on that question.

The roll was called and the vote was as follows:

AYES—52.

Allen	Larsen, L.
Anderson	Larsen, C. P.
Barnes	Lemmon
Boyer	Lowe, Wm.
Brandley	Lowe, Peter
Buys	Low, Cache
Call	Maeser
Cannon	Miller
Chidester	Morris
Coray	Murdock, Beaver
Corfman	Murdock, Wasatch
Creer	Partridge
Cunningham	Peters
Driver	Preston
Engberg	Raleigh
Farr	Richards
Francis	Ricks
Hammond	Robertson
Hart	Robinson, Kane
Halliday	Robison, Wayne
Howard	Snow
Hughes	Symons
Ivins	Thompson
Johnson	Thoreson

Jolley Thorne
Kimball, Salt Lake Thurman.

NOES—43.

Adams	Mackintosh
Bowdle	Maloney
Button	McFarland
Clark	Murdock, Summit
Crane	Page
Cushing	Peterson, Grand
Eichnor	Peterson, Sanpete
Eldredge	Pierce
Emery	Roberts
Evans, Weber	Ryan
Gibbs	Sharp
Goodwin	Shurtliff
Green	Spencer
Haynes	Squires
Hill	Stover
Hyde	Strevell
James	Van Horne
Keith	Varian
Kerr	Warrum
Kimball, Weber	Wells
Lewis	Williams.
Lund	

ABSENT—11.

Christianson	Maughan
Evans, Utah	Moritz
Heybourne	Nebeker
Kiesel	Thatcher
Kearns	Whitney.
Lambert	

Mr. KERR. Mr. President, I desire to explain my vote if I have permission.

The PRESIDENT. You may have the privilege of explaining your vote.

Mr. KERR. My reason for voting no—

Mr. EVANS (Weber). Mr. President, the gentleman has no privilege of explaining his vote under the rules, unless he desires not to vote at all. He may explain the reason why.

Mr. KERR. I want to explain why I vote no.

Mr. EVANS (Weber). Under the rule that cannot be done.

The PRESIDENT. That cannot be done under the rule.

Mr. KERR. It seems to me this is not a very dignified body, when gentlemen

are deprived of expressing their views upon a question simply to force it to an issue.

Mr. WILLIAMS. Mr. President, I would like to know just exactly what we are voting upon.

The PRESIDENT. We are voting on the question as to whether debate shall be stopped upon this motion to postpone.

The motion for the previous question was declared lost.

Mr. ROBERTS. Mr. President, I am very pleased that debate has not been cut off on that proposition to postpone the third reading of this article on elections and suffrage until the 15th. I am of the opinion that the Convention ought to be perfectly willing to postpone the consideration of that subject. During the debate in the committee of the whole on this question a good deal was made out of the circumstance that there was no protest against the Convention inserting in the Constitution a clause granting woman suffrage. Now, that a sentiment has been aroused, and the people not alone in this city and in Ogden, but in all parts of this Territory, are making preparations to make themselves heard, I think the most undignified thing for this Convention to do would have been to close their eyes to this fact and refuse to hear what that aroused sentiment had to say. This is all very well, gentlemen, to make the proposition that if we discover that there is a change in public sentiment we will reconsider the action. The gentleman when he makes that proposition knows that it would be very difficult to take that consideration since it would require a two-thirds vote in order to do that. I want to ask the gentleman what harm can come from a postponement of this question until the 15th? What party pledges will be broken? What is there that would be undignified in it? What harm can it do to the main issue? The very least that can be expected from the demands that will yet

be made of this Convention would be that the proposition to grant woman's suffrage should be put into a separate article to be voted upon by the people separate and apart from the Constitution itself. If a majority of members of this Convention here determine to put that proposition through this afternoon and make it a part to-day of the Constitution we are forming, I ask them to pause once more and to remember this, that your action this afternoon means thousands of votes against this Constitution, if you do this act that you now propose. The gentlemen will do well to consider that proposition. I concede that this Convention in committee of the whole has accorded to me very great courtesies indeed, no greater, however, than the exigencies which confronted us demanded, and I think the committee and the Convention have done themselves as much honor in extending to me the courtesies as I have been gratified. I call attention of this Convention to the fact that a public sentiment is fast awakening against the insertion of this article into the Constitution itself. The chamber of commerce in this city passed a unanimous resolution, asking that this question be submitted separately. The trade unions of this city did the same thing. A mass meeting of ladies is to assemble only to-morrow afternoon. A monster general mass meeting is to be held to-morrow night. A movement is on foot for it. Mr. Squires has already called attention to the fact that a widespread agitation is taking place throughout this Territory, and I think that the Convention will be guilty of no unseemly conduct if they postpone this matter to the time that is proposed. I do not want to detain you longer upon this subject. You already know my feelings upon it. But when there is such a general demand that this proposition should be put into a separate clause I insist that this Convention should give ear to that sentiment that is being ex-

pressed. The Convention listened to my protest against inserting this in the Constitution. I now ask it to listen to the aroused public sentiment upon this question. I take it, sir, that I am dealing with men in opposition, who are men of character, and men who are earnest in their convictions as I am in mine. Surely, gentlemen, you do not wish this to prevail if the people do not want it. Surely, you do not intend to crowd it into the Constitution, if a majority or even a large minority should ask that you make it a clause separate to be voted upon by the people, apart from the Constitution itself. You are stronger in your convictions, you are conscious of ability to go before the public with this question. There is nothing undignified in the proposition that is made to postpone this matter. Certainly it ought to be done out of respect for the aroused public sentiment on this question, and I hope sincerely that it will be done.

Mr. KERR. Mr. President, I am in favor of postponing the consideration of the article on elections and right of suffrage, and I do not believe in the first place that as stated by one of the gentlemen that have spoken, that to vote to postpone the consideration of this question means a vote against woman suffrage. If it does, it means then that between now and the time when this subject is considered by this Convention there will be a change in the minds of the delegates as to whether the rights of suffrage should be granted or whether the question should be submitted to the people as a separate proposition. It is stated by two of the speakers that their constituents have been heard from, but the people of Garfield and Beaver are not the people of Utah. In the campaign I had the pleasure of attending a large number of meetings, and at no meeting did I hear the question of woman suffrage even mentioned. And I say, Mr. President, that the question as to

whether the women of Utah will be given the right of suffrage has not been carefully and thoroughly considered by the people of Utah. Now, without considering at all the question of suffrage, it does seem to me the proper thing that we should defer consideration of this for some time, while mass meetings are being held and protests being sent in against the rights of suffrage. Friends of suffrage have equal opportunities of expressing their views and sending in their petitions and memorials to this Convention. This I believe is said to be a free country. We believe in free speech, we believe in the freedom of the press, and I say, Mr. President, that if within the next 10 or 12 days the people of Utah are prepared to vote against woman's suffrage, then it would be an outrage upon the people of Utah to force it upon them at this time.

Listen to those who have something to say upon this question. Defer the final consideration of this question until the people of Utah can be heard from, and I say that although I shall vote to postpone the consideration of this, I disclaim that I thereby vote against woman's suffrage, and I repeat that if the mere postponement of this consideration of this question for 10 days means its defeat, and the question of submitting it to the people as a separate proposition is one that can be carefully considered—I submit, Mr. President, that this question is of the greatest importance to the people of Utah, and they should be heard from upon it, but none of the gentlemen has said that the postponement of the consideration of this question will be for the purpose of perfecting some scheme, by which to defeat it, and the setting of some political trap. Does the gentleman admit or mean that the delegates in this Convention are to be drawn into some trap? That they have not minds of their own, that they are not prepared to consider this question upon its

merits? And say, Mr. President, that it is but fair, it is but just, that we should postpone the consideration of this question until the people of Utah can be heard from, and if the majority of the people are so overwhelmingly, then they too can be heard from. Let us show that we believe in liberty, in the voice of the people, in the rights of freedom—freedom of speech, and freedom of the press, and let us get all the information we can upon this subject before we finally decide as to whether we shall place it in the body of the Constitution, or submit it as a separate proposition, as to whether we shall decide against woman's suffrage. I trust, Mr. President, that this Convention will vote to postpone consideration of this question, that the people of the Territory may be heard upon it.

Mr. VAN HORNE. Mr. President, it seems to me that it has been developed that there is in the minds of members of this Convention a misapprehension of the duties of the delegates, an idea perhaps that they were to be autocrats over the people, that we were to establish a Constitution and leave the people no say about it, except to adopt or reject. My own idea of the duty of a delegate is, that however high may be the office entrusted to him, it is not as controlling to the people in any way that he should act, but he is their servant for the purpose of suggesting to them a Constitution, which shall only get effect by their suffrage. If that be the true way of looking at our office and our duties, it seems to me that there can be no possible objection to such postponement of an important question upon which men in the Constitutional Convention itself widely differ, and as will give the people, who are the true sovereigns, and who will have to pass upon the question of adopting or rejecting such things as may be drafted by this Convention, an opportunity to suggest to us, their servants, what we shall draft, and how it

shall be submitted. If it be true that sentiment is changing on this matter there—if it be true that people who thought that woman's suffrage in Utah is a thing that must assuredly come, are changing their minds now, and saying, "We are doubtful as to whether it shall be the fate of women to vote in the new State or not," if they are changing their minds as to whether it is proper and best that women should have suffrage in this new State; if they send us here to draft a Constitution to present to them, without pledging us to the particular manner in which different things should be presented, and we have a choice of manners, it seems to me that we might well await the decision—the suggestion even of our constituents as to the form in which questions may be presented to them.

I have heard of its coming from citizen after citizen, who has expressed himself as in favor of woman's suffrage, to say of it, "if they put that this way that we must vote woman's suffrage or not have statehood—give us no chance to say whether we want a State and want to have it with woman's suffrage or without woman's suffrage, that we will not submit to be dictated to in that way," and will vote against the Constitution. It seems to me if that feeling is becoming prevalent among our constituents, that we might well pause and say to them, "Gentlemen, you have sent us here to propose certain things for adoption by you; if you can show us that if we propose some things about which men can honestly differ in the Constitution itself, you will reject the Constitution, but if we propose them to you in a separate article and the Constitution in other respects agrees with your ideas, we will adopt the Constitution and reject the separate article," that we, the servants of the people, should surely listen. It does not seem to me it goes to the merits of the question or to the final result. It

simply goes to the question of whether it is dignified here to listen to the voice of the sovereign who sent us.

Mr. WELLS. Mr. President, I am in favor of deferring this question for the present. Statements have been made by the minority upon this floor that a portion of the people of this Territory desire to be heard upon the proposition. We must take notice of the fact that meetings have been called and petitions are in circulation asking that some different action be taken than that expressed the other day as the will of this Convention. To take action now would be to deny citizens a right which we guaranteed them yesterday by the adoption of our bill of rights, wherein we say the right of petition shall not be denied, and when the storm of petitions come and the rains of remonstrance descend, if our house is built upon a rock it will stand, and if it is built upon the sand it will be swept away. Do not let us be accused hereafter, gentlemen, of railroading this measure through. Let us give all sides an opportunity to have their say. We can always afford to be fair with an opponent. The right of petition shall not be denied. I do not believe a vote to delay is a vote against woman suffrage. We are making a Constitution to endure for perhaps fifty or a hundred years. Surely we can afford to wait ten days to let the people be heard in regard to one section of it. I shall vote to postpone.

Mr. RICHARDS. Mr. President, I am opposed to the motion to postpone, and I am opposed to it for the reason that the minority, in my opinion, have had the indulgence of this Convention beyond what they could reasonably ask. They have recently closed a debate of five days, during which one gentleman occupied the floor over five hours discussing this question. They come here to-day, when we had met them, and have it now as the regular order, and ask to suspend the regular order,

and to defer it until some future time, and then they talk about unseemly haste, and they talk about railroading things through after we have been in session here for thirty days, and crave a want of time for the people to be heard from. The people of the Territory of Utah were heard from in the middle of last September, when they made their platforms in both political parties. If there was any doubt—if they spoke with any uncertain sound at that time, they were heard from on election day, when they elected me and you to come here and frame a Constitution. We have been in session thirty days; where is the remonstrance that has come up against this thing? Where is the voice that has been raised from our constituency telling us to pause and not do that which they sent us here to do? That is what I want somebody to answer to me, and tell me that this is in unseemly haste. Tell me that men who have been elected upon this platform, and have come here and sat for thirty days, and had a week's debate—a week this morning since the distinguished gentleman from Davis commenced upon the floor of this Convention to manufacture sentiment against equal suffrage, and yet not a word or a voice has been sounded here in remonstrance from one of our constituents. Tell me it is unseemly haste to proceed with the regular order! I deny it, and I say further that we have, in my opinion, proceeded as far as we can and maintain the respect of our constituents, to say nothing of our own self-respect, in the way of dilly-dallying and trifling with this matter. That is how it looks to me. That is where I stand. No man can say that I am not in favor of the people having an opportunity to speak. No man can justly say that I will stifle any man's voice upon the floor of this Convention. It does not lie in the mouth of the minority to say that. I say, with the gentleman from Utah, that they were extended a courtesy that is un-

usual and unheard of, and I cannot unite with the gentleman from Davis when he says that we did ourselves honor in listening to all this debate and in according to him all the time that he desired, and that he occupied.

Mr. ROBERTS. Mr. President—

Mr. RICHARDS. We did honor to him, but I doubt the assertion that the Convention did so much honor to itself as the gentleman suggested. Of course we were edified. Of course we were instructed; of course we were amused by the gentleman's eloquence, but I do not understand that this Convention was overwhelmingly honored to the extent that the delegate from Davis would seem to indicate. Now, I say in answer to what the gentlemen have said about hurrying this matter up, that there has been no hurry. If the proposition was to advance this matter upon the calendar, if it was a proposition to put it out of order and to consider it before it was reached in the regular order, I think I should be with those who are now voting to have this matter postponed. But it has taken its regular order. They opposed it being made a special order, and it went on until it was reached in its regular order before the committee of the whole, and then, as I say, debate was not checked, it was not limited. As far as I understand it, every gentleman on the opposite side and every gentleman either in favor of or opposing this proposition had an opportunity to say all that he wanted to say on the subject. The subject was thoroughly exhausted in that discussion. It went on the calendar. We have reached it in the regular order; now, I say it is unfair, it is unjust—I say it is untrue to say that we are pushing this with undue haste—I say it is untrue to say that we are attempting to railroad it through when we take it up in its regular order. That is my position. And so I say, Mr. President, I am opposed to this motion. I believe that we should go on now with

the regular order and attend to our regular business, and if these remonstrances that have been promised ever materialize, so long as this Convention is in session, so long will we be ready to listen to the voice of the people, and if it should appear that the people have changed their sentiments since they elected the delegates who compose this Convention and want us here to do this work, I, with the other gentlemen who have spoken, will be among the first to recognize the right of the people to speak. But I say we are not justified in remaining silent and assuming that they have changed their minds in the absence of any proof to that effect, and so I say we ought to go on with the regular order. That is my position.

Mr. ROBERTS. Mr. President, I arise to a question of personal privilege, that of making an explanation. The gentleman from Salt Lake, (Mr. Richards) has had an entire misapprehension of one remark I made. I remarked that this Convention did itself honor when it refused to cut off debate on the propriety of postponing the consideration of this question, and not that the Convention did itself honor in listening to my remarks. That, sir, is egotism, and I trust that I shall forever be free from the presumption, and I shall never be guilty of, and the gentleman's heat and passion upon that particular point were uncalled for.

Mr. RICHARDS. Mr. President, I think if the stenographer's notes are referred to, it will appear as I have stated that the gentleman said that the Convention did itself honor in hearing him as it gave him satisfaction to speak. That I think was what was said.

Mr. JAMES. Mr. President, I ask unanimous consent to hand a note from some ladies that are now present in our room, to the secretary of this Convention to have it read.

The PRESIDENT. If there is no objection, gentlemen—

Mr. EVANS (Weber). Mr. President, it seems to me that we ought to consider this motion that is before the Convention.

The PRESIDENT. It is certainly out of order to do this.

Mr. VARIAN. I would like to ask the nature of it.

Mr. EVANS (Weber). I do not like to be discourteous to the ladies and cannot be—

The PRESIDENT. It cannot be considered if there is objection.

Mr. JAMES. I will then take the floor if I have the privilege.

The PRESIDENT. The gentleman has the floor.

Mr. FARR. What is the question before the house?

The PRESIDENT. The question before the house is to postpone the consideration of this question of woman suffrage until the 15th of this month.

Mr. JAMES. I arise to speak to the motion to postpone this matter until the 15th day of this month. I suppose the mover of that motion did not include to postpone it beyond the time that would interfere with our work. I want to say this in answer to Mr. Richards, of Salt Lake County; he says that there is unfairness, that we are acting unjustly in asking for postponement. Now, I would grant Mr. Richards is correct in his position provided that this Convention had nothing else to do but to deal with the woman suffrage question. Now, my friends, we have on the calendar plenty of work. We need not have lost one moment this afternoon. We could have taken up the work and gone right along with it, that we will have to complete before we complete our Constitution, or we will never have any Constitution. As Mr. Squires has well said, and as every gentleman that has been on this floor knows, there has been a reason brought about for asking for more time. That reason has been that we have had communications

coming to us. They have come, Mr. President, from the thousands, and I say, Mr. President, when I stand up here and ask you to postpone this matter for a few days, I say that I voice the sentiment of ten thousand honest men and women in this county, and I say, let that man deny it that will; I say it is correct. I know I am right, because I know the people and I know their feelings. I am no stranger here among them. I meet them in my daily walks in life, and I meet them of all classes. They are not confined to the church that I happen to belong to, nor to the church that my neighbor or any other denomination may belong to. They include all classes. They include as loyal and as honest a people as are to be found in this community. They include as loyal woman suffragists as ever walked upon the streets of Salt Lake. They have a higher motive, my friends, than simply to ask of this Convention that they engraft into the Constitution something that jeopardizes the very life of that article. That is the reason that I arise here before you, my friends, to raise my feeble pleading in behalf of this little favor to be granted of postponing until we can hear from this people and determine whether the majority want it in the Constitution, or whether they want it submitted in a separate article; now, I want to say in answer and in due respect to the gentlemen that have accused me and have accused others that are in favor of this postponement, that it is unjust, it is unfair and it is not true, my friends, that any gentleman that votes upon this floor for a postponement is voting against woman suffrage, and I am sorry such honorable gentlemen, such fair-minded men that I have got acquainted with, and live to learn and respect and honor in all things—I do not know why they should get up here and so unjustly accuse us of this unfairness, and I plead to my friends, and plead to you, Mr. Chairman, who

brought the majority report in here, in an honorable way, but in a manner at the present time of attempting to unduly force this thing down the throats of the people—do not do it, you are going to make a mistake.

Mr. CHIDESTER. May I ask you a question? When the proposition comes up regularly on its third reading, is that crowding it unduly down the throats of the people?

Mr. JAMES. Under the circumstances, Mr. Chidester, it is. I would say if it is true that this woman suffrage question had come before the people, had been discussed upon its merits, and the people had passed upon it, I would say then, the gentleman from Garfield County may be right, but I say, while it may be true in his locality that it was thoroughly understood, and his position is correct, so far as the people are concerned in this Territory it is not correct, for I assert, as I asserted before, that this question never was brought before the people.

Mr. BUTTON. Mr. President, I would like to ask Mr. James a question. You said that if Mr. Chidester's position is correct, so far as his county is concerned—who would they have voted for if they were not in favor of woman suffrage? They would not have voted at all, would they?

Mr. JAMES. I do not understand the gentleman's question. I said his position is correct on this proposition, that the question had been brought before his people and it had been discussed and he came here pledged to that proposition.

Mr. BUTTON. You don't understand my question. He claims it has been discussed in his county, throughout the county, and they voted upon it. Now, was there a candidate on any ticket in his county, that was against woman suffrage so that the other side could vote on it?

Mr. JAMES. I understand the gentleman now. I could not answer that

question, Mr. Button. I do not know. Mr. Chidester, probably, can answer that question. I doubt very much whether it is true, because I heard of no gentleman disputing the proposition in any part of the Territory. Consequently, I take it for granted that it was not so, that there were no anti-suffragists or suffragists. They were probably in his county all in favor of it. Now, I want to read you, Mr. President, a note that I hold in my hand in support of the proposition that I have taken:

Salt Lake City, Utah,
April 4, 1895.

Mr. President and gentlemen of the Convention:

You are hereby invited to attend in a body the woman's mass meeting at the Grand opera house to-morrow, Friday afternoon, which will be held for the purpose of protesting against equal suffrage being incorporated in the State Constitution, and taking action to submit the question to the popular vote.

Very respectfully,
MRS. J. A. FROISETH,
MRS. M. E. EASTON,
Committee.

Mr. CREER. Mr. President, I move to lay that on the table.

Mr. JAMES. Now, Mr. President, is there any plea there to this question for postponing action on this matter? Is not there going to be a convention held in this city to-morrow that will express the views of the ladies of this city?

Mr. CANNON. May I ask the gentleman a question?

Mr. JAMES. Yes.

Mr. CANNON. Is it a meeting to express the views of the ladies of this city?

Mr. JAMES. Why, certainly, and it is not an expression of Sanpete valley, or any other part of the Territory that I know of.

Mr. CANNON. Is it of all the ladies of this city?

Mr. JAMES. Yes, sir; I suppose so. I am not in charge of the affair. I do not know anything about the manage-

ment of it, but I do not suppose that the ladies have got any corner upon any convention that is to be held in this city. I do not believe they are that kind of ladies.

Mr. CANNON. As I understand the invitation it is to attend the meeting which is to protest against the woman's suffrage. Not to express the sentiment of the people, but to protest against woman's suffrage; am I correct?

Mr. JAMES. Oh, no, I think that is your own construction.

Mr. IVINS. Mr. President, will Mr. James allow me to read a notice that calls this meeting for to-morrow as it is published in the daily papers?

Mr. JAMES. I have no objection.

Mr. IVINS. Just at this point, because it will clear up this matter. The call is as follows:

The women of Salt Lake City and County, who are opposed to equal suffrage being incorporated in the State Constitution, are hereby cordially invited to assemble in mass meeting to enter their protest against the proposed measure and take action for submitting the question to popular vote. The meeting will be at the Grand opera house on Friday afternoon at 2 o'clock.

Mr. JAMES. Is there any objection to the ladies to assemble in mass meeting and declare to the people of this county what their convictions are upon this matter?

Mr. CORAY. Mr. President, I arise to a point of order—that Mr. James should have addressed the chair. He has no right to talk to Mr. Ivins.

Mr. JAMES. Probably the man from Juab would like to make my speech for me. But I object.

The PRESIDENT. Mr. James has the floor.

Mr. JAMES. I want to say, gentlemen, but a little more upon this question. Our distinguished friend from Utah County says that it would be the fair thing to go ahead and decide this matter from a dignified standpoint—

Mr. ANDERSON. Mr. President, I arise to a point of order.

The PRESIDENT. State your point of order.

Mr. ANDERSON. My point of order is that according to amendment of our rules we are limited to five minutes in this discussion.

The PRESIDENT. That is in the committee of the whole. It is without limit in the house.

Mr. JAMES. Anything more the gentleman would like to bring up [laughter] from Beaver County? Now, gentlemen, do you see the gentleman's position? He is a lawyer and a very clever gentleman, too, in his profession. Do you see the gentleman's position? He says to you very nicely, "Now in a dignified manner let us meet and settle this question. And if afterwards, after the matter has been discussed and brought before the people of this Territory, we find we have made a mistake, then, we will reconsider this matter and set it all right." Very nice, but the gentleman knows very well that he has got an advantage when he has accomplished that point and he will turn around and say to you, "Oh, to reconsider it takes a two-thirds vote, and it don't make much difference whether—"

Mr. THURMAN. May I ask you a question?

Mr. JAMES. Yes, certainly.

Mr. RICHARDS. Before the gentleman from Utah asks a question, I would ask Mr. James if he would speak a little louder. We are losing your remarks, Mr. James; we would very much like to hear them.

Mr. THURMAN. Don't you suppose that if it does turn out that the sentiment of the people—the honest sentiment—is opposed to woman suffrage that delegates on this floor would be willing to reconsider?

Mr. JAMES. Mr. President, I protest against the proposition. I have never taken this floor, nor has the majority of my friends that have stood with me

on the proposition of opposition to woman suffrage—we simply ask you, gentlemen, to consider the course that is most advisable to pursue in this Convention. We want to have the matter done in a way so that it will be satisfactory. We do not want to jeopardize the Constitution of this State. We want statehood, and if the people say so, I say they are entitled to woman suffrage, and I defy the man to contradict my position.

Mr. THURMAN. Let me ask you one question further, if you will?

Mr. JAMES. Yes, sir.

Mr. THURMAN. Do you want a Constitution and State government, if the majority of the people of Utah want a certain provision in it, which is republican, but who kept it out and who are forced to keep it out through fear—do you want that kind of a Constitution?

Mr. JAMES. That is a—

Mr. THURMAN. Do you want that kind of statehood?

Mr. JAMES. That is a kind of a hypothetical question that is not entitled to an answer, in my opinion. The proposition is this, I say to the gentleman from Utah County, that if there is one doubt, or ten thousand honest people in this Territory who are honestly opposed to woman's suffrage, that in all fairness and justice to those people, you have no right to refuse them to vote for the Constitution of this State, or to vote for woman's suffrage, which they may be opposed to. Why do you do it? Why don't you put it in a separate article? Is it going to deny the ladies of this Territory the right of voting if the people want it? No, sir.

The PRESIDENT. That is not the question. The question is on the postponement.

Mr. JAMES. The postponement of what?

The PRESIDENT. On the postponement of the consideration of this question until the 15th.

Mr. JAMES. Mr. President, I was

trying to answer my friend from Utah County. Now, I say that I do hope that our friends will act so as to bury this feeling, this distrust that is growing here in our community. This majority here that are trying to deal unjustly with the minority. Now, I beg of the gentlemen to simply postpone this matter and let it be debated by the people. There is nothing wrong in it. It will do no one any harm on earth. It will certainly give a chance for us to act intelligently in this Convention and prevent that widespread evil, and my friends, it is an evil, and no man appreciates the danger of our condition more than I do. I have lived among you from the time that I was a beardless boy. It has been my home, and no man has ever regretted the friction that existed in this Territory more than I have, and we have just stepped out of that condition, and I say, Mr. President, nothing is more gratifying to me than to find myself working side by side with all classes for one common purpose. Now, these conditions existed before, and we have hardly sponged them off the slate yet. The marks are there yet plain. Now, let us act in a way so that we may continue this good work and go on and do what is just and what is right, and that is all I ask for.

Mr. LEWIS. Mr. President, during all the discussions upon this question I have remained in my seat and have not given utterance to any expression of my feelings in regard to the matter. I have sat quietly and patiently and listened to the entire discussion throughout the five or six days in which it has been engaged. To-day it seems to me that I cannot consistently retain my seat any longer, but that I must arise before this Convention, and in the interest of my constituents and in the interest of the people of this Territory proclaim in favor of the motion offered by Mr. Squires. The gentleman from Salt Lake

City said there had been no remonstrance. Cannot the gentlemen hear the murmur that has already commenced? And if you will but wait the allotted time, ten days, the sentiment or remonstrance, to my belief, will roll upon this Convention, and every man will see the wisdom of this Convention incorporating this article in a separate proposition. [Applause.] The gentleman said that every man who voted in favor of this proposition was against suffrage. I can, with the same propriety, say that every man that votes against it is against statehood. My constituents sent me here, gentlemen and Mr. President, for the purpose of trying to establish or to adopt this Constitution that will bring Utah into this great American Union as one of the sovereign states of this Republic. I stand here, my friends, upon that platform, and if the cry has gone out among my constituents that if you incorporate female suffrage in that Constitution, we will have no statehood, I say, hold, and let us hear further from this people, and hear what they have to say, for I will not cast my vote in this Convention for any proposition that will endanger statehood for this Territory, therefore, I say it behooves you as men of intelligence, as honorable men, and as high-minded men, as statesmen, it behooves you to wait and hear from the people. I have heard from my constituents. They are the representatives of my city and of my county, men whose opinions I cannot afford to sacrifice. I am not afraid of the people. I am a man and I stand here to-day as their representative awaiting their opinion. Therefore, I give this utterance to my sentiments and I shall vote for this proposition of deferring this matter for fifteen days or ten days until we may hear from the people and I am not afraid of the consequences. And I challenge any man to say that by so doing I am not in favor of female suffrage. I will not detain

you. I just wanted to give expression to my feelings and the expression of my heart, for they are honest and sincere.

Mr. GOODWIN. Mr. President, there is one advantage to this proposition for postponement which I have not heard any expression given to, that is, if we could postpone for ten days, we could probably have the rest of the Constitution about fixed. As it is, I think we will be discussing it right along ten days hence, and some of these speeches are getting very thin. The gentleman from Salt Lake said he had five days of this, and he carried the idea that nearly all of it was on one side. If my memory is correct, we heard a very magnificent speech for an hour or two from the gentleman himself, and there were but two long speeches delivered. Now, it is only this way, a call for a meeting to protest against this thing has been issued for to-morrow, and the idea has been carried that that would be a put-up affair. Suppose there should not anyone attend that meeting. That would be an endorsement of those in favor of suffrage. If there would be a great rush of people, it would be an intimation that we ought to wait. I am talking this way because I have stated how I am going to vote on this question. I stated it after due deliberation, and I don't propose to change my mind. But on this floor there are two sets of men. One set believes that the majority in this country should rule. I belong to that crowd. There is another class who says that if there is one woman in this Territory that wants the right to vote, she ought to have it, and ought to have it put in the Constitution. What will my friend from Utah County do with the people that believe that way if this thing is passed and comes up for reconsideration? Some men do not change their minds. The good Lord only knows how they are made up, but we all know that after they are once made up, that fixes it. When I was a boy I

learned that the majority of the people in this country ruled. That if they didn't rule, the thing must be agitated until they did, and if there was an unjust law there was a way to get at it—to have that repealed, that is, through agitation, until the voice of the majority should be heard. Now, my belief is that these gentlemen who are anxious to force this thing to an issue to-day are making a mistake. I believe they have a perfectly certain thing. I believe that it will not change for one moment the time when the women of this Territory will have suffrage, whether it is put into the Constitution or whether it is put into a separate clause, but the difference between the two will be this: a great many thousand people in this Territory will vote for the Constitution in one of them and against it in the other. In all communities there are active forces at work, and latent forces which are not moved until emergencies arise.

The latent force is at work now. Let us see how strong it is. We do not want to make a mistake. Some of us here are getting a little tired of this debate. We would rather gentlemen would re-write their speeches, and if they take a delay of ten days, they can bring us in something fresh. Let us wait. Who is going to be harmed by it? About the dignity of the matter, there is nothing in it. It would be dignified for us to go on. It would be dignified for us to wait. That is, our opinion here is bound to be dignified if we say so. We have got the say on the subject. I do not see who is going to be harmed by this little delay; and, in the meantime, we can transact a great deal of business. There is only one other question that I can think of that is going to cause a great deal of debate on this floor, and I am in hopes that that will be disposed of in a single sitting. Why not go on with the regular business and let those people for or against woman suffrage be heard?

Mr. CORAY. Mr. President, I would like to ask Judge Goodwin a question. I would like to ask if you think we can pass the question as it stands? The question as I understand it is whether it shall be postponed or not. I am anxious to bring it to a vote and find out what we are going to do, but they all seem inclined to talk on woman suffrage for a week or ten days.

Mr. GOODWIN. My speech would have been ended, Mr. President, if I had not been interrupted. These gentlemen that get up and ask conundrums delay the Convention. I merely want to say that we, as a deliberative body, are in the hands of the people as their agents to do their will, if we find it out, and we ought not to do anything by which the enemies of the measure would say to-morrow morning, "They rushed it through, because they are afraid." I do not believe any gentlemen here is afraid. I do not believe any harm could be done to any gentleman, or for that matter any lady (although I believe the proposition is to make every lady in the Territory a perfect gentleman at once), to let this matter rest for a week or ten days. I was not here when the motion was put, but I speak for the postponement in the interest of peace, the interests of justice, in the interests of good fellowship, and for the sake of the ladies themselves, because they do not want to be debated every day in this house, and principally because when we come here then we can get through with the matter in twenty minutes, and there will be no occasion for debate.

Mr. EVANS (Weber). Mr. President, as I come from a locality where something has been said about this matter recently, I thought it necessary and proper that I should make a few remarks respecting the motion which is now before the Convention. Other gentlemen who have spoken here upon this floor say they want it for the purpose of hearing from their constituents. So far as I am concerned, I have heard

from mine, and I do not desire any particular time on that account. And I heard from them in a somewhat emphatic way.

I want to say to you now, gentlemen, upon this floor, that if these meetings of protest against woman's suffrage are to be carried on in the same disgraceful manner that the one at Ogden was carried on, it will not aid you much in determining the question as to whether the people desire suffrage or not. In my county the constituents of my colleague seemed to be somewhat displeased with him because he opposes it, so we have this situation. In one locality people seem to favor it and in another locality they seem to oppose it. Now, what is going to be the result? Delay action here for ten days—to-night it is said we are to have a meeting of ladies who desired to protest against the insertion of a clause in the Constitution favoring woman's suffrage. Some meeting perhaps will be held to-morrow when a different class of people may get together for the purpose of favoring a clause in the Constitution of that character; so we will have it. The gentleman who made the motion kindly furnished me with a petition which he says is being circulated broadcast throughout the Territory. It reads as follows:

The undersigned men and women of Utah respectfully petition the Constitutional Convention to submit to the people in a separate article the question of suffrage for women.

That petition is designed to secure that particular class of people who favor that particular method. Doubtless counter petitions will be gotten up, reading differently from this, soliciting the people to sign petitions favoring the insertion of suffrage in the Constitution itself. So I grant you, Mr. President and gentlemen of this Convention, that when ten days shall have passed there will be upon the floor of this house, charges, counter-charges, criminations, and recriminations. It will be said

upon the one hand that the people of Utah oppose woman's suffrage being inserted in the Constitution. Upon the other hand it will be equally emphatically charged that the people of Utah demand that it be inserted in the Constitution. The agitation will become rife. Will we then be in a situation by which we can determine this with any more intelligence than we can now? Let me give you an illustration. In Ogden the other night a meeting was held, friends were present who favored suffrage. There were people there who were enemies to it. It is charged by the friends, or insisted upon by the friends of suffrage, that that meeting largely predominated in favor of suffrage, and that they succeeded in adjourning the meeting. Upon the other hand it was charged that the people there favoring suffrage were but very few, and those who opposed it predominated the meeting. There is a little bit of conflict right in a little meeting like that, which was called by the chairmen of the democratic and republican committees of Weber County. It ended with some bitterness. No lesson had been taught. Nothing had been done by which the people could secure the real sentiments of the people of that locality—nothing at all. Gentlemen, we have been in session now for 32 days. If this postponement be made ten days, that would be 42 days. We commence then with all the multitude of petitions and remonstrances that would lie upon the secretary's desk and renew the discussion. As the gentleman from Salt Lake has remarked, people will study the question. They will make new speeches. I doubt that any man will change his mind upon the subject. We will start anew. Under the rules as we have now in the Convention the debate is unlimited. When will this Convention end? I do not, however, appeal to this house upon that point, because that is not proper alone. But will we change our minds upon this subject? Will it be

profitable to us? I have thought, and I have thought of it so seriously that I desire to do that which is right.

I have thought many times, and I think yet, that notwithstanding the fact that I am in favor of woman's suffrage, that if the majority of the people of Utah were opposed to it, I should willingly bow in humble reverence and obedience to that opinion, because, in this country, the majorities must rule. I have upon two occasions prepared a resolution, but after looking them over, I thought it would be unprofitable to introduce them, and I have not introduced them—resolutions looking to the submitting of this by the special election for the purpose of securing their sentiments upon this question, and postponing action until that could be done, but I know of no power which this Convention could exercise which would effectuate that matter, so I have abandoned that. Now, I am here in this position, like Brother Roberts said, so far as my constituents are concerned, standing alone, digging my cold, silent grave. It makes no difference to me, gentlemen. I say now, as he said then, that I would rather have my free thought than a crown, and I do not believe that to postpone action ten days will qualify any member in this Convention to cast a more intelligent vote than he could cast to-day. I do not desire to make any particular reference to a personal matter, but it is true, the gentleman from Weber has not made any expression of opinion upon this floor respecting this question until he has done it to-day. It may be as admirable to sit quiet and make no expression of opinion at all until you see how your constituents go, and how public sentiment is forming, but for my part, gentlemen, I do not care. In the face of my constituents and in the face of the people of Utah, if I am sent here to perform a duty I shall perform that duty and do it honestly, and if it be my last political act, I am satisfied, and I now say that

while I am willing to have a reasonable postponement of this matter, I will not vote for a postponement for ten days.

The PRESIDENT. I trust the gentlemen will confine themselves to the proposition to postpone, and not go over too much ground. We have been threshing too much old straw.

Mr. MORRIS. Mr. President, I cannot see what more we can learn by the postponement of ten days in regard to the fact and conditions of the feeling of the people of Utah Territory. It may be true that a few agitators in Salt Lake City and Ogden may come together to give expression to their feelings, but as for the mass of the people, from one end of the Territory to the other we will know no more of them than we know to-day. You cannot get in a few days like this all the masses of the people to come together. Few, and very few, can come together to agitate this kind of a question—while the mother with her children would rather stay at home. And we may postpone this for a month, we will never find the facts in regard to the feelings of the women of Utah. I claim we have lost too much time on this question. We were ready on the first day to settle this question, just as much as we were to-day, and I, for one, oppose postponement. Let us bring the thing to an issue. Let us go on with our business or else we will not get through in time for the election in November next.

Mr. IVINS. Mr. President, I would like very much if the question had been called an hour or two ago, but inasmuch as it has become a kind of field day again, I just want to say that when the proposition to postpone this matter was first made, I was favorably disposed towards it, because it was represented by the gentlemen making it that petitions had been sent out in every postoffice in the Territory, and that it would be well to wait until we got the voice of the people as the result of these petitions. Now, when I come to look

in the papers here I find that these petitions are to the women who are opposed to equal suffrage being incorporated in the Constitution.

Mr. SQUIRES. I beg the gentleman's pardon; upon the desk of Mr. Evans—

Mr. IVINS. Mr. President, I have the floor.

Mr. SQUIRES—there is the petition.

Mr. IVINS. "The undersigned men and women of Utah respectfully petition the Constitutional Convention to submit to the people as a separate article the question of suffrage for women." Now, I submit that after ten days have elapsed, and these petitions that have all come back from the people are laid before us, we may only have one side of this question properly and fairly before us for consideration. What will the result be? Why, I should want ten days more to send down to my constituents and get a counter petition, which I certainly could be able to obtain, because we came here very distinctly instructed in regard to this question. First, to use our best efforts in the direction of equal suffrage, and second, to see that that article was incorporated, not that it was submitted to the people in a separate article. And therefore, in order that there may be no delay, and because I feel satisfied that no justifiable good will result from it, I have concluded that I am ready to assume my part of the responsibility of going on with this matter right here now. It has not been heard? This cry of unseemly haste has been raised from very first day that this question came into the Convention. The committee was accused of unseemly haste who made the report. The men who attempted to shut off this debate a week ago and save thousands of dollars and engaged valuable time, were accused of unseemly haste, and now when it comes along in its regular form just as it should, not hurried at all, men ask why this unseemly haste to attend to the matter, when it should be attended to

in its proper order. I am opposed since listening to this debate—I have become opposed to any further postponement of this question. I do not partake of the fear that it is going to endanger statehood. I know the people of Utah too well. Every delegate on this floor came here instructed by the people of Utah to work to this end, whether he acknowledges it or not; whether he is a republican or whether he is a democrat, he came here pledged to equal suffrage, and I am getting tired of seeing men crawfish and adopt this policy and the other policy, with no purpose under heaven it seems to me, but to obstruct this measure in the hope that eventually they will be able to defeat it. I am ready to vote to-day.

Mr. THOMPSON. Mr. President, I wish to announce that I am very well acquainted in Millard County, the county that I partly represent here, and I do not know of a man or woman in Millard County that is opposed to woman suffrage. I have been acquainted in that county for a number of years, and cannot call to mind one instance of a woman or man that has expressed an opinion opposed to woman suffrage. It has been argued on this floor that it would bring politics into our families. It is too late in the day to bring that up as a proposition against woman suffrage. Why, it came into my family three years ago and the republicans got away with half of the family and the democrats with the other half, and it is a foregone conclusion that politics has made its way in our family, and with both classes, the men and the women, and I shall oppose postponing for the reason that we would not know, as some have said before here, any better in ten days from to-day the sentiments of the people of Utah Territory than we know now.

Mr. RICKS. Mr. President, I move the previous question.

The PRESIDENT. That has been voted down.

Mr. RICKS. There has been debate since.

Mr. FARR. I find it very difficult, Mr. President, to get this floor just at this time. I wish to say a few words on this subject. This is a very important one. We have been here some little time on this subject, and we have been very patient, I think. The question has been asked, what harm is it to postpone? That is an item that I wish to speak upon. I can tell you what harm it will be to postpone this for ten days. It will cost this Territory a great many thousand dollars. That is one harm. It will cost a great many meetings and all sort of feeling and acrimony, and harsh sentiments to be brought up and agitated to get people to state their feelings, and to get an influence used against woman's suffrage. I am aware of this. For that reason I am opposed to postponing it. There is not a gentleman that has come here to the Convention, but what came here with an understanding when they came, that woman's suffrage was to be embodied in the Constitution. They understood it. It was so understood in public in every quarter, and they have had for the last six or eight or ten months to think over this matter. It is not a new thing. I have been conversant with these matters and I know something about what the feelings of the people are, and I am sorry to see this thing postponed. We came here to do business. We came here to transact business for the people and get up a Constitution, and here we are put off day after day, day after day, and now when it comes to an issue to vote, we are asked to put it off a little longer. It is not right to impose upon the people and fool away—spend their money in this way. I say let us get our Constitution and put it forth, and if the people do not like it, why they have the

right to vote it down. I am opposed to this delay.

It is well known that the element that is opposed to woman suffrage, although there are a great many honorable gentlemen and ladies—nice gentlemen and ladies that are opposed to woman's suffrage, but I want to say to you and you all very well know it—if you do not I do, that the saloon element, the gambling element, and the prostitute element are opposed to it; every one that I have conversed with [laughter] I have conversed with that element and I know what I am talking about [laughter]. I want you to understand that I have conversed with the prostitute and the saloon element. I have been acquainted and conversant with them for many years, and I know they are opposed to this, although, as I said before, there are many honorable gentlemen and ladies that are opposed to it, but I tell you the time is coming when the women of Utah are going to have the privilege of voting and say who should rule over them and who should handle their funds and their means. I am a particular friend of the females, and my sisters are females, and I will tell you I have walked side by side with them, and my wife, I have walked side by side with her, and I want to continue to walk with her and to have her come with me and have her rights as she has her rights. I don't care, gentlemen, if there is not more than ten women in this Territory that wants suffrage they have that inalienable right God has given to them. The United States has given it to them. Although it says male, yet it means female. [Laughter.] They have the right to vote and to express their judgments as well as the men have, and I do not care if nine-tenths of the women in this Territory are opposed to female suffrage, the other tenth have a right, and should have that right, and if the nine-tenths do not want to vote and do not want office, and do not want any-

thing to do with it they can let it alone, but the others should not be deprived of that, and we are not going to be the men here to deprive them of it. We are going to give them that right and we came here for that purpose, and to establish laws that will protect every man and woman in their inalienable rights.

I do not wish to occupy your time, but I felt as though I wanted to give vent to some of my feelings that they may be known that I am in for the rights of honorable and upright women of this Territory; if they want to vote they shall say who shall handle their means. And I can tell you another thing, when they get the right to vote you will find the saloons and this gambling element and this other element that you laughed so much about, they will all be scattered and you will, and you may, laugh just as much as you want to. It is going to come.

Mr. JOLLEY. Mr. President, it seems as though there is no end to the question before us, but I have felt like inquiring in my mind, while sitting here listening, how it was that those on both sides of our political parties were so ignorant that they did not know that the people did not want suffrage when they put it in their platform?

Mr. LOW (Cache). Mr. President, I arise to a point of order. The gentleman is not speaking to the question.

The PRESIDENT. The question is on the postponement.

Mr. JOLLEY. That is the question that I am upon.

Mr. LOW (Cache). Suffrage has been spoken of this afternoon for an hour and a half instead of the question of postponement.

Mr. JOLLEY. I am opposed to the postponement, and I will state my reasons why I am opposed to it. As I stated, they do not seem to know the minds of the people at that time, or at least they thought they did, and those that were elected were elected on the

same platform, and they did not find out any different but what the people were for suffrage. There was no remonstrance sent in here since this question has been sprung on the floor. We had a five days' debate as has been stated, and it went from here out and returned. We hear of some remonstrance, but not of ladies—but few of ladies. Now, for to wait another ten days and to send out an inquiry all over Utah who is against this proposition, it is simply appealing to the people that we here, assembled in this Convention, do not know what to do, that we have not the stamina to put that in the Constitution and we want an excuse to crawl out of it; and the agents of these petitions will say to them, "You sign this and that will relieve those men that you sent down there, and it will be put as a side issue;" but those that are yet in for it and expect that we will be men of our word—have they got to ask the second time that they wish us to be men of our word, and send petitions down to rebut those? I would not think that would be reasonable, and as the speaker of Davis County said a while ago, if there was a fair minority then we ought to switch it and let it go in on its own issue—

The PRESIDENT. The question is on the postponement; you are talking on the suffrage question.

Mr. JOLLEY. The postponement is what I am on.

(Call for the question.)

The PRESIDENT. The gentleman has the floor. I have allowed wonderful latitude here and I want to check it up a little.

Mr. JOLLEY. By sending out and getting those remonstrances in there is bound to be a minority report without the majority would send in a full report that they yet meant what they elected us for, and I think that we ought to remember what we come here for without being told the second time, and even

though there would be a minority report come in, I think that we ought to go ahead for the majority of the people. Therefore, I am against the proposition.

Mr. CANNON. Mr. President and gentlemen of the committee, I do not desire to take up much time, but I desire to call attention to this fact: We have other business that we could attend to by going into committee of the whole. We have other propositions that we can take up, but so far as I am concerned I am opposed to the proposition as presented by Mr. Squires. I shall certainly vote against changing the order of this bill on elections and rights of suffrage. If the Convention desire to go into the committee of the whole, I would vote for that, because we could spend several days in that way profitably, but to change this, put it out of its order and delay it by putting it on for eleven days, after the committee has reported, after we have been in session 32 days, I certainly am opposed to it.

Mr. BARNES. Mr. President, I am opposed to the postponement of the consideration of the article now before the Convention on elections and rights of suffrage, for the following reasons: I came here this afternoon, gentlemen, prepared to listen to anything that would pour oil upon the troubled waters. Now, it has been asserted here that a great deal of feeling has been engendered throughout the Territory in consequence of our proceedings in this hall.

If such is the case, I claim that the origin of it is right in this Convention and that we are responsible for it. I have heard nothing this afternoon that induces me in any degree to give to a postponement of the consideration of the measure before us, but for the very reasons adduced in order that these feelings which I believe are growing—ask ourselves gentlemen if the feeling upon this floor is not more intense today than it was two weeks ago, when

this measure was first brought up. I believe it is and I believe that this feeling is growing and I believe that it is our duty to take immediate action in order that it may be definitely known where we stand and what we propose to do, and when we assert ourselves like true men, say what we intend to do; the people of the Territory will fall in line and they will follow our lead.

The roll being called on the question of postponement, the result was as follows:

AYES—42.

Adams	Mackintosh
Bowdle	Maloney
Button	McFarland
Clark	Murdock, Summit
Crane	Page
Cushing	Peterson, Grand
Eichnor	Peterson, Sanpete
Eldredge	Pierce
Emery	Roberts
Gibbs	Ryan
Goodwin	Sharp
Green	Shurtliff
Haynes	Spencer
Hill	Squires
Hyde	Stover
James	Strevel
Keith	Van Horne
Kerr	Varian
Kimball, Weber	Warrum
Lewis	Wells
Lund	Williams.

NOES—51.

Allen	Larsen, L.
Anderson	Larsen, C. P.
Barnes	Lemmon
Boyer	Lowe, Wm.
Brandley	Lowe, Peter
Buys	Low, Cache
Call	Miller
Cannon	Morris
Chidester	Murdock, Beaver
Coray	Murdock, Wasatch
Corfman	Partridge
Creer	Peters
Cunningham	Preston
Driver	Raleigh
Engberg	Richards

Evans, Weber	Ricks
Farr	Robertson
Francis	Robinson, Kane
Hammond	Robison, Wayne
Hart	Snow
Halliday	Symons
Howard	Thompson
Hughes	Thoreson
Ivins	Thorne
Jolley	Thurman.
Kimball, Salt Lake	

ABSENT—13.

Christiansen	Maeser
Evans, Utah	Maughan
Heybourne	Moritz
Johnson	Nebeker
Kiesel	Thatcher
Kearns	Whitney.
Lambert	

The president declared Mr. Squires' motion lost.

Mr. CANNON. Mr. President, I move that we now go into committee of the whole for the consideration of the next proposition.

Mr. THURMAN. Don't do that. Let us go on with the third reading. Regular order.

Mr. JAMES. I second the motion to go into the committee of the whole and consider the second article.

Mr. IVINS. Mr. President, I submit that we cannot go into committee of the whole without suspending the rules.

Mr. ELDREGE. Mr. President, I will move that we postpone until the tenth the article on elections and rights of suffrage. I do this on consideration of the matter that was set forth by Mr. Squires. I think it is a sufficient justification to entitle a continuance of this until that day. I do not see why there will be anything lost in fixing it on a certain day, and realizing that there is any amount of work by which this Convention can be engaged in while that may be left until further consideration—

Mr. CANNON. Mr. President, I rise to a point of order.

Mr. SQUIRES. I second the motion of the gentleman from Summit.

The PRESIDENT. State your point of order.

Mr. CANNON. My point of order is that this motion is out of order at this time. The other motion is before the Convention. It necessarily involves a suspension of the rules, when we go into committee of the whole. It is understood that that would be a part of the motion.

Mr. ELDREDGE. Mr. President, I will say that it is a different day, and hence, I think it is not out of order.

The PRESIDENT. The point of the gentleman is that his motion had precedence; that is the point of order, which is correct.

Mr. Murdock of Beaver by his request was excused.

Mr. CANNON. I favor going into committee of the whole for the reason that we have a great many articles that we can consider in the committee of the whole, and that by so doing we do not displace this article. I would vote against any motion to postpone for a single day, but I would not like to take it up at this time. I favor going on with our regular business in committee of the whole, and by that means, without displacing this, we can be occupied several days if we choose so to do.

The PRESIDENT. The question is on the motion of Mr. Cannon.

Mr. SQUIRES. Roll call—yeas and nays.

Mr. THURMAN. Yes, take up all the time you can. We will stay with you.

Mr. VARIAN. Mr. President, I call your attention to rule 24, which provides, "That when a question is under debate no motion shall be received but to adjourn, but to lie on the table, for the previous question, to postpone to a day certain, to commit or amend, to postpone indefinitely, which several motions shall have precedence in the order in which they are arranged."

The question before the house was the third reading of the article. Now, a motion to go into committee of the whole should give way to a motion to postpone to a day certain.

Mr. HART. Mr. President, I arise to a point of order on the motion of Mr. Eldredge to postpone to a day certain. That is exactly the motion we have been discussing.

The PRESIDENT. It is another date.

Mr. HART. Well, that I say, Mr. President, makes no difference, it is virtually a motion to postpone to a day certain. Having just decided that we cannot consider it again. If any other rule should prevail than this, this Convention could be kept here until the 15th in voting on just such motions as that, because you could take a motion for just as many days or parts of days as there are in the whole year, and we would never come to any limit on this question. Deciding a question against postponing to a day certain, if that does not settle the question for the time being, then we have no protection whatever.

Mr. RICHARDS. Before the chair announces its decision, I want to say one word in support of the point of order, and that is this, that if the gentleman from Summit desired to have his motion prevail he should have made it as an amendment to the other, but now coming in and saying that the proposition is for another day will not answer. That does not obviate the rule.

The PRESIDENT. Rule 24 states that "equivalent motions, resolutions or amendments thereto shall not be entertained."

What is the further pleasure?

The Convention then proceeded to the third reading of the article on elections and rights of suffrage.

Section 1 was read by the secretary as follows:

Section 1. The rights of citizens of the State of Utah to vote and hold

office shall not be denied or abridged on account of sex. Both male and female citizens of this State shall equally enjoy all civil, political, and religious rights and privileges.

Mr. EICHNOR. Mr. President, I offer the following amendment:

The following section shall be submitted as a separate article to the qualified electors for adoption or rejection at the election for the adoption of this Constitution. Separate article, No. 1:

Section 1. The rights of citizens of the State of Utah to vote and hold office shall not be denied or abridged on account of sex. Both male and female citizens of this State shall equally enjoy all civil, political, and religious rights and privileges.

Mr. EICHNOR. Mr. President, my amendment is by striking out section 1 and inserting in that amendment in lieu thereof.

Mr. ROBERTS. I second it.

Mr. THURMAN. I arise to a point of order on that, that kind of an amendment is not in order. This is a proposition to go into the Constitution. You cannot amend this article which is for insertion in the Constitution by the proposal here of something which is not to go into the Constitution, but is to be submitted as a separate proposition. There certainly can be no question about that. You can readily see we have got to present here a complete article. Whatever may be the result of our vote upon this question of woman's suffrage, we have got to present an article which defines the qualifications of electors.

Mr. VARIAN. Mr. President, I arise to a point of order. When a gentleman on this floor states to a point of order it is his duty to state it and sit down. If he desires to debate it, he can do that after the chair decides it by taking an appeal.

Mr. THURMAN. That point of order is well taken, whatever may be said of mine.

Mr. EICHNOR. Mr. President, I arise to a—

Mr. VARIAN. I arise to the same point of order with Mr. Eichnor.

The PRESIDENT. I did not catch the gentleman's point of order.

Mr. THURMAN. My point of order, Mr. President, is this, that the amendment proposed to section 1 of the article is not in order because it is not germane to the proposition. It is a proposition to amend a section of an article presented here to go into the Constitution by a proposition which is not to go into the Constitution, but to go somewhere else. It has no bearing whatever upon this article; if it is relevant anywhere it will be in some article—

Mr. VARIAN. Now, Mr. President—

Mr. THURMAN. Well, I wanted to make myself plain.

The PRESIDENT. The opinion of the chair is that the point of order is well taken.

Mr. VARIAN. I take an appeal if the chair so decides.

Mr. EICHNOR. I second the appeal.

The PRESIDENT. Shall the decision of the chair stand? An appeal is taken from the decision of the chair. Shall the decision of the chair stand? All in favor will say—

Mr. VARIAN. One moment, Mr. President. It must be obvious to the Convention, as well as to the gentleman from Utah County, that if this is the law under our rules this question cannot be presented at all, and the question confronting us now is whether upon the third reading, when we are in the Convention, where the ayes and nays are to be called, any member or number of members on this floor are entitled to submit for the consideration of this Convention a proposition of this kind. If it shall be determined by the Convention that the decision of the chair shall stand as the decision of the house, the result will be that if there be a majority of the members on this floor in favor of passing this article as it is written, it will go under our laws to the committee on arrangement and compi-

lation to be revised for the purpose of putting it into the Constitution, and nowhere in our proceedings will be permitted to vote upon this question as to whether or not this article ought to be submitted separately. Now, in the first place, that is not fair. I think every gentleman will admit that any such construction, unless imperatively necessary by the absolute letter and spirit of the rule, ought not to prevail. The intention of these rules is, when the propositions come from the committee of the whole, that the recommendation from that committee that a third reading shall be had, when all these propositions for amendment may be presented and discussed, and determined by the body of the Convention. I venture to say that this is in the nature of an amendment germane to this very section. What is the proposition before the Convention? That this section shall not be put into the body of the Constitution, but shall be substituted as a separate article with the Constitution. Why is that not germane? It is just a question as to how it shall be submitted. It is germane to that question and it does not follow at all that because it would be incongruous, the method of submission to the people being decided in one way would be incongruous because of the context of the other sections, which are submitted in the body of the Constitution, because that matter would be governed and controlled by the committee on compilation and arrangement, just as we are doing every day in the committee of the whole, passing and voting upon questions which members believe properly belong in other articles of the Constitution, and it has been stated here time and again, and we so understand it, when we get through as to the substance we will arrange as to the garb and the form in which the substance shall be dressed. Now, I submit to the Convention that the proposition presented by Mr. Eichnor is simply this: Shall this particular

subject matter, just as it stands here, be submitted as a separate article? As presented by the committee of the whole it stands. Shall it be submitted in the body of the Constitution, and we ought to be permitted under the rule to decide that question, and then if it shall appear that it is necessary to transpose this article and put it in another place, it can be done, and that is in contemplation of the rule. To that extent it is germane, and it cannot be done, so far as I know, at any other time. That is at least after you have called the ayes and nays and had your roll called upon this entire article, when it passes into the hands of the committee on compilation. If you do it now, peradventure, if there should be a majority in favor of that, the committee on compilation would take it as it came and arrange it in form, or the committee on schedule would consult with them, therefore, it can be done that way. Therefore, I hope that this decision shall not stand.

Mr. CANNON. May I ask the gentleman a question? I would like to know, Mr. Varian, what would be the effect should the proposed amendment offered by Mr. Eichnor—that is, should this proposed section be voted down by the people who vote on the Constitution—how would the article then stand?

Mr. VARIAN. Do you mean the entire article?

Mr. CANNON. No, sir; the article on this particular subject—section 1—if they should vote it down?

Mr. VARIAN. I will answer that in this way. If it should be the sense of the Convention that this article should be submitted separately they would have to remodel, in some degree at least, some provisions of the article on elections and rights of suffrage in order to meet such a possible contingency.

Mr. CANNON. That is what I wish to know.

Mr. VARIAN. But I submit that that would furnish no argument against permitting a vote to be taken upon this

question at this time, under the head of third reading, so that everybody may have an opportunity of presenting their views with their vote upon that particular question, which is the important one and the only one that is dividing this body to-day.

Mr. EVANS (Weber). I would like to ask Mr. Varian a question on this. Suppose section 1 was displaced by Mr. Eichnor's amendment, and it should pass in that way, would we have anything then in the article on election and rights of suffrage defining who were entitled to vote in the new State, and say further that the article proposed by Mr. Eichnor would be defeated at the polls?

Mr. VARIAN. That is the same question asked by Mr. Cannon. I answered that in the same way. If it shall be the sense of this Convention fairly and candidly that this question should be submitted by way of a separate article, it would possibly be necessary to make some change in the language of this section or article.

Mr. IVINS. If the amendment proposed by Mr. Eichnor should prevail, would it take the place in that article on elections and right of suffrage, that section 1 now has?

Mr. VARIAN. No, I think not.

Mr. IVINS. Could it take that place?

Mr. VARIAN. I think it would simply sense in the view of the Convention that that particular question was to be submitted separately.

Mr. IVINS. If it cannot take the place of that section how can it be a proper amendment to that section—if it cannot possibly take the place of it?

Mr. VARIAN. In this way, it is a question that may come up at any time, and I will illustrate in this way. When you come to consider any article that has been presented from a committee, you may stumble on to a proposition that will divide the people here in this Convention. Some may be in favor of submitting it separately, some may be in favor of keeping it where it is.

When you are considering it, the question as to how it shall be submitted is germane. That is one of the great questions that is before the body all the time. Under the Enabling Act you may submit any question in the body of the Constitution, or you may submit such a question by a separate article. Of course, it is germane. It is one of the very questions that this Convention has got to decide, and it is idle to say by any argument of that kind that you can do away with the power of this Convention to pass upon that question, and I ask the gentlemen where, in the course of the proceedings, will we be permitted to take a vote upon that question in open Convention? If this shall be sustained we go through this section. The majority here force a vote to-night, and it passes the third reading and gets beyond our power under the rules of this Convention. Now, I submit that that never was intended. Congress never intended that. We have a right to pass upon that question, and whether it takes the places of that section or not does not determine this question. The question is to be determined whether it is germane to the matter before the house. It is germane that, before the house, you determine whether a question shall be submitted in the body of the Constitution or separately. That is one of the principal germane questions, and that is all this motion reaches. It does not attempt to change the language. It does not attempt to do anything except to present the question as to how it shall be submitted, in the body of the Constitution or separately. That is one of the principal germane questions, and that is all this motion reaches. It does not attempt to do anything except to present the question as to how it shall be submitted, and this rule would deprive the members of this Convention from voting.

Mr. EVANS (Weber). Mr. President, I desire to advocate sustaining the chair upon this proposition. I think the

chair is undoubtedly right. I do not pretend to be a parliamentarian. I yield that palm to Mr. Varian, who is the chairman of the committee on rules, in the absence of the president, but it does seem to me that to offer as an amendment to section 1 an article which is to be separate and apart from the Constitution is ridiculous itself. We are here in Convention making a Constitution. The committee on elections has proposed an article. We are now considering section 1.

The proposition is presented here to amend that section by offering a substitute which is to be submitted apart from the Constitution, to the people. It seems to be wholly foreign to it. While the subject matter itself is germane, the place is altogether foreign to that which we are considering. Is it not ridiculous, gentlemen of the Convention, to say that we will put in an article to be inserted in the Constitution, which is to be inserted separately and apart from it? The gentleman says where will we go? What will we do here in the future if the chair's decision be sustained? I say it will be all right, and when any gentleman undertakes to move as an amendment to something which we are considering in a Convention, a proposition to be submitted to the people separately from the Constitution, that the chair ought to hold it is out of order. If the gentlemen do not like section 1, let them move to strike it out; that will be germane, and if it be stricken out, if it be the sense of the Convention that it go out, let a proposition be proposed at the proper time to submit this question to the people.

Mr. VARIAN. I would like to ask the gentleman a question. When is the proper time to propose it? When can we do it and where can we have a vote on it?

Mr. EVANS (Weber). You do it when the question is to be considered which comes up from the committee on

schedule. There is a committee which proposes an article here. I believe it is already reported, and when that committee's report is being considered anything which is proper to be submitted to the people separate and apart from the Constitution, it would be proper then to offer, and gentlemen would not be precluded in this matter.

Mr. EICHNOR. May I ask you a question? If section 1 is passed, and if this article is adopted by the Convention, you place the substitute which I offered in the schedule, and suppose it is voted down by the people, where are you then? You would not have any section at all.

Mr. EVANS (Weber). That is just why I say it is not germane. If brother Eichnor's amendment should prevail, then section 1 is not to be submitted at all, but the substitute shall be submitted to the people and apart from the Constitution itself, and if the people shall vote that down, the rights of citizens would not be defined at all in the Constitution. Then anybody could vote, idiots, insane persons, or anybody else—Chinamen for that matter.

Mr. THURMAN. Mr. President, the vice of this proposition, from a parliamentary standpoint, is this, if this substitute carries it is immediately placed somewhere else—in some other article—and a new proposition will have to be proposed, which would be an amendment. Now, I take it, that brother Eichnor has some proposition or something to suggest here as to who shall be qualified electors; have you not?

Mr. EICHNOR. If my substitute carries?

Mr. THURMAN. Yes.

Mr. EICHNOR. Yes, sir.

Mr. THURMAN. You, then, have a proposition fixing—

Mr. EICHNOR. Can I answer you?

Mr. THURMAN. Yes, of course.

Mr. EICHNOR. If my substitute is adopted to remodel section 2, or make a new section, and the committee on

compilation and arrangement will take my substitute, which becomes section 1 and place it into the schedule and change the number of the article.

Mr. THURMAN. Then you admit that the proposition that you now offer does belong to the schedule, don't you?

Mr. EICHNOR. If it is accepted here.

Mr. THURMAN. Can you place it anywhere else but in the schedule?

Mr. EICHNOR. No, sir.

Mr. THURMAN. That bears out the argument of my friend from Weber County. The proposition is to send an article on election and rights of suffrage which must come into the article on schedule and there is no escaping from it.

Mr. VARIAN. Will the gentleman permit me to ask him a question now?

Mr. THURMAN. Of course.

Mr. VARIAN. If it should be determined by the Convention that this should be submitted as a separate article, of course, is it not true that sections 1 and 2 would have to be changed so as to confine the right to male citizens?

Mr. THURMAN. Of course that is true.

Mr. VARIAN. That is all that would have to be done?

Mr. THURMAN. That is true, but the gentlemen say how can we get this thing before the Convention?

Suppose that the gentleman from Salt Lake had come forward with this motion to amend section 1 by putting in its place another section which belongs there, and say in his argument, "I have a proposition which I want to submit to the people, which I wish to read as a part of my argument, to show you my views on this question of woman suffrage." That would be germane, that would be proper, but we contend that when the chair ruled that it was not germane to have the elections and right of suffrage article amended by a proposition which cannot go any-

where else but in the article on schedule, the chair ruled right and that the appeal ought to be denied.

Mr. RICHARDS. Mr. President, it seems to me that when a section is before the Convention for consideration, it means this: Words may be inserted in that section, words may be stricken out, the whole section may be stricken out. A substitute might provide, but to say that the section should be taken out of that article and placed somewhere else as an amendment of that section or of that article. Now, it seems to me that that is just as clear as daylight. If the motion had been to strike out that section that would have been one thing, but it was not to strike out the section, it was to provide that a certain section—in fact the same section as I understood it when it was read, should be transposed from that article into the schedule or somewhere else as a separate proposition. Now, certainly that can not be an amendment to that section or to that article.

The question being taken on the appeal from the decision of the chair, the Convention divided, and by a vote of 50 ayes to 35 noes, the decision of the chair was sustained.

Mr. WELLS. Mr. President, are further amendments in order now?

The PRESIDENT. Yes, sir.

Mr. WELLS. I have an amendment that I wish to offer to section 1 to add at the end of the section:

Provided that laws shall be passed excluding women from serving on juries or acting as officers of the peace, and for military duty.

Mr. ROBERTS. Mr. President, I can not vote for that amendment. If we are going to have woman suffrage, I believe in having it pure and unadulterated. That is, if you grant women the suffrage I propose to have everything that properly goes with it, and it upon this ground I believe that General Grant is credited with saying, that if you want to obtain a repeal of a bad

law, the proper thing to do is to enforce it vigorously. If we want to test the granting of women the franchise in its effects, I believe they should have the sweet privilege of having the whole dose of it. I believe that it is absolutely an improper thing to do to grant the elective franchise to citizens who are not prepared to meet all the obligations that go with it when other people exercise that franchise.

Mr. CANNON. Will the gentleman permit me a question? In case of a man who has passed the age at which military service is required, or who is deformed, or infirm in body, would you deprive him of his vote?

Mr. ROBERTS. No, sir; I would not deprive women either of their vote. Let women that are crippled and have the same disabilities that the gentleman has referred to have the same exemptions that men have. I lay down, that it is a proper principle that whenever you grant the elective franchise to any part of the citizens, everything connected with it ought to accompany it.

The fact of the business is, Mr. President, that I am of the opinion that in consequence of the fact that this body of citizens that you propose to enfranchise are not physically competent to meet all the duties that go with an exercise of the elective franchise upon them, and for that reason I cannot sustain that amendment.

Mr. CREER. I would like to ask him a question?

Mr. DRIVER. May I ask Mr. Roberts a question?

Mr. ROBERTS. Certainly.

Mr. DRIVER. Under the law, I am exempt from serving on juries, have I the right to vote?

Mr. ROBERTS. I cannot state anything about the condition of the gentleman.

Mr. DRIVER. I am exempt from serving, not on account of age. Have I a right to vote?

Mr. ROBERTS. I do not know any-

thing about the gentleman's disabilities as to voting, but whatever the disabilities are and if they are justified, I would be perfectly willing to have the same courtesy extended to the women that he possesses in individual cases.

Mr. DRIVER. I am exempt from serving, not on account of age. Have I a right to vote?

Mr. ROBERTS. I did not know the gentleman was a clergyman.

Mr. DRIVER. Prescription druggists are exempt from serving on juries.

Mr. ROBERTS. My answer to that is that if there are women druggists or women ministers, let them exercise the same privileges that men in that same condition do.

Mr. WELLS. Mr. President, I just desire to alter the reading of my amendment a little; "Provided that no female citizen shall be compelled to serve as a juror or act as a peace officer or perform military duty."

Mr. RICHARDS. Mr. President, I hope this amendment will not prevail. This is legislation. I think that we can safely trust the Legislature of a coming State to make such provisions in relation to jury service and exemptions, etc., as may be proper. I think that it will be very improper for us to adopt an amendment of this kind to this section.

Mr. JOLLEY. I accept the slight amendment and will yet second the amendment of the motion.

Mr. VARIAN. I call the attention of the gentleman from Salt Lake, Mr. Wells, to the fact that so far as a military service is concerned, he may leave that out. The law of the United States regulates militia; limits that to male citizens.

Mr. WELLS. I will accept that suggestion, if that is a fact.

Mr. VARIAN. I would like to ask the gentleman a question? Whether he contemplates the possibility of their sitting as judges? As I read the article, their right to hold office shall not be denied or abridged, and now the amend-

ment will have the effect of abridging it to the extent of sitting on juries.

Mr. EVANS (Weber). It simply provides that they shall not be compelled to do that.

Mr. BUTTON. Mr. President, if it is in order, I would like to have that amendment so that Mr. Jolley's wife would not be a justice of the peace. He spoke about that particularly, I believe.

The amendment of Mr. Wells was rejected.

Mr. MALONEY. Mr. President, I would like to offer an amendment to that section. On line 3, in section 1, after the word "of" and before the word "sex," insert "race, color, or." I make this statement, because it was required in the Enabling Act, which reads as follows:

The Constitution shall be republican in form and make no distinction in civil or political rights, on account of race or color.

It is absolutely essential, because of the language of the Enabling Act.

Mr. IVINS. Mr. President, it seems to me, there is no necessity for that amendment at all. Section 1, as it stands, makes no distinction as to race or color.

The question being taken on the amendment offered by Mr. Maloney, the Convention divided, and by a vote of 37 ayes to 39 noes, the amendment was rejected.

The Convention, at 5:05 o'clock p. m., adjourned.

THIRTY-THIRD DAY.

FRIDAY, April 5, 1895.

The Convention was called to order at 10 o'clock a. m. by President Smith.

The roll was called and all members found in attendance except Thatcher.

Prayer was offered by Rev. W. S. Hawkes of the Congregational Church.

The journal of the thirty-second day's session was read and approved.

Messrs. Murdock, Coray, Apperley, Neilson, Denny and Ollerton were admitted to a seat on the floor of the Convention.

The following petitions were presented, asking that the question of woman's suffrage be submitted as a separate article to the vote of the people:

File No. 175, signed by George L. Nye and ninety others, by Varian of Salt Lake.

File No. 176, signed by J. W. Savage and one hundred and fifty others, by Button, of Salt Lake.

File No. 178, signed by James L. Franken and fifty others, by Eichnor, of Salt Lake.

File No. 179, from the Chamber of Commerce of Salt Lake, by Roberts, of Davis.

On motion, they were ordered filed.

Mr. C. P. Larsen, of Sanpete, presented a petition (file No. 177), signed by about five hundred citizens of Sanpete, requesting that the question of prohibition be submitted to a vote of the people.

Referred to the committee on schedule, future amendments and miscellaneous.

The following minority report of the committee on water rights, irrigation and agriculture was submitted:

MR. PRESIDENT:

I beg leave to submit a minority report on the subject of irrigation as follows:

ARTICLE.

Section 1. All existing rights to the use of any of the waters of this State for any useful purpose, shall be recognized and confirmed.

Section 2. The Legislature shall provide by law for the regulation, distribution and controlling of the waters of this State and may provide by law such rules and regulations under which rights may be acquired to any of the waters of this State, for any useful purpose, and shall also provide for the protection of all water rights acquired, or to be acquired for any useful purpose.

LAURITZ LARSEN,

On the committee of water rights.

Under the rules, referred to the committee of the whole.

Mr. LUND. Mr. President, I would make an oral report of the committee on accounts and expenses. We have left \$10,870.88, and the amount disbursed, which the secretary has actually paid, is \$16,600.25.

Mr. JAMES. May I ask the chairman of the committee on accounts and expenses whether he has submitted the bill for clerk hire for the committee on corporations other than municipal.

Mr. LUND. The committee on corporations had a clerk who wrote ninety-one letters, addressed them to different points of the Territory and paid the postage and the material, and the charges are \$20. They asked that that be permitted or allowed.

Mr. VARIAN. I would like to ask the chairman of that committee whether he has taken care of the bill allowed by the committee on rules?

Mr. BOWDLE. I would like to ask the chairman of the committee whether that includes the expense of the printing?

Mr. LUND. Yes, sir; as far as we can get at it to-day.

Mr. JAMES. Mr. President, I move the adoption of the report of the committee.

The PRESIDENT. Should not there be a written statement to the secretary here of this matter? The chairman will hand it up in writing.

Mr. RICHARDS. Mr. President, I think the report of this committee ought to set out the items of expense that go to make up these different amounts.

The PRESIDENT. He has it right there in his book.

Mr. RICHARDS. I do not care to have them myself. I think the report itself should show the items. I suppose it will.

Mr. LUND. Mr. President, I will say for the information of those who would like to know, that there has not been

one item omitted. It is all upon the list, even five cents. When the bill is printed the item has to be there too.

Mr. RICHARDS. I do not think the gentleman understands my suggestion. My suggestion is it should be incorporated into the report and become a part of the record of the Convention.

The PRESIDENT. The chairman will take notice of this and make such a report. There was a motion made to allow an account to some committee there.

Mr. LUND. The committee on corporations.

The PRESIDENT. What is the amount?

Mr. LUND. Twenty dollars.

The account was allowed.

Third reading of ordinances and propositions to be inserted in the Constitution.

The PRESIDENT. This brings us to the consideration of elections and suffrage. Section 1 was under consideration when we adjourned.

Mr. VARIAN. Mr. President, I move to recommit the article on elections and rights of suffrage to a special committee of five members with instructions to report an article providing for equal suffrage for men and women, to be submitted separately to the qualified electors of the Territory with the Constitution, and to revise the general article on the subject for insertion in the Constitution, so that it shall harmonize with the proposition for separate submission. The objection made on yesterday, by means of a point of order, was principally made on the ground that purposes sought to be accomplished by the amendment offered were not germane to the matter under consideration, and the house sustained the chair in his ruling upon that question. It is manifest that under that ruling, to which we must now bow, of course, the majority of the house, being of the opinion that it was right—it is manifest that in no other way can

this question be presented to this Convention, so that those of us who are in favor of submitting this question separately can be heard and record our votes on it. We do not record our votes on that question by voting aye on this article, or by voting no against this article. When this article, as now pending before the Convention, shall have passed its third reading and been adopted under our rules, no further amendments are allowed to it, and it must go into the Constitution, unless at least two-thirds of the Convention should decide to suspend the rules for the purpose of allowing an amendment. And if a proposition of this kind should come from the committee on schedule, such report and such advocacy would be at once met with this very answer, and with this proposition, "We have already put into the Constitution something that is entirely in conflict with this proposition now suggested by the committee on schedule." So, the Convention will perceive that it is virtually depriving a very large minority—possibly one-third of the members of this house, of a right not only of their own right, but the right of their constituents to express by their votes on the record there their convictions upon this question.

Mr. CHIDESTER. I take it, Mr. President, that this is an extraordinary motion to make at this stage of the proceedings, to submit that to a special committee when it has been in charge of a committee and has been reported upon, from the fact that that committee who had it in charge was largely in favor of the report that was presented here, there only being two members who were opposed to it, and it seems to me to be in the nature of an attempt to prolong this and put it off. Now, I may be accused again of wanting to crowd this matter through, but now, I believe that I am justified in saying that this is an attempt to postpone it—an attempt which was defeated yes-

terday, and in answer to the proposition of the gentleman who just spoke, that in the event that the committee on schedule would bring in something that it would be met by members who favor this, now that this had been adopted—if that is the voice and sentiment of the majority of this Convention, then it is proper that it should be settled, and I see no reason why this matter should be submitted to any committee, either to the standing committee or to any special committee appointed for that purpose. I believe it has had due consideration, and I call the attention of the gentleman to the fact that everything that could be required, in the way of giving a chance to meet this, has been done from the beginning, and it was left open from the beginning that any objection might be brought in, and it was taken up the first day and at the end of the session it was there stated that it would still be open for discussion. Nothing was brought in, and I say it is unfair now to even make an attempt to resubmit that to the standing committee or to any special committee.

Mr. VARIAN. Mr. President, I would like to add, with leave, an amendment to that motion as to time, which did not occur to me, I want leave to insert in there, "within three days."

Mr. CHIDESTER. Mr. President, I make the same objection to the motion as amended as I did before.

Mr. IVINS. Mr. President, this seems to me like a very unusual proposition for more reasons than one. In the first place the amendment provides that this matter shall be submitted to a committee of five with instructions just what they are to do. Now, if that committee is to take this matter under advisement, with instructions to report an article providing for the separate submission of this matter to the qualified electors of this Territory, why cannot we do it right here without sending into committee at all? It does not leave any dis-

cretion with this committee that is to be appointed. They are appointed for a certain purpose, and that purpose is well defined in the proposed amendment. That is one reason that I object to it. Another reason is that it seems to be inopportune to propose such an amendment at this time. This has been properly reported from its proper committee. It has been before this house in committee of the whole and been considered there, and passed, and now at this stage, to ask that it be committed to a special committee, seems to me to be entirely out of place. It is simply asking that that be done which this body refused to do yesterday, and that is, to submit this proposition to a separate vote of the people. Now, Mr. President, in connection with this matter, and as a part of my argument, I wish to read a call that appears in this morning's Tribune, signed by about two hundred persons, some of whom are members of this Constitutional Convention.

(Reads:)

A mass meeting of all the qualified voters of Salt Lake City and County, is hereby called to be held at the Exposition building, on Friday evening, April 5, 1895, at 8 o'clock, for the purpose of protesting against the incorporating into the Constitution, now being prepared for the proposed State of Utah, the proposition entitling women to vote and hold office in the new State, and for the purpose of taking such action as may be advisable with a view of requesting the Constitutional Convention to make provision for the submission of the question of woman's suffrage to a vote of the people, under such regulations as shall be provided by the State Legislature.

The thing is gradually coming out in its true colors. It is not a proposition to submit the question of woman's suffrage to a vote of the qualified electors of this Territory, but it is a proposition to defer the whole question until after the first State Legislature shall convene, and leave this matter in their hands, so that in case it may be possible in a political campaign to have

elected to the first Legislature a majority of men who would be opposed to woman's suffrage. The question would be effectually killed by such action as this. Gentlemen, I am becoming more and more persuaded that we have temporized with this question just as much as we ought to. Let us get through with it.

Mr. THORESON. Mr. President, I am opposed to any further delay in this matter. It seems to me that a majority of this Convention should insist upon having their rights. I do not think now that we should continue this campaign work any further. In looking around this Convention we see that the friends—or rather those that have individual scruples against equal suffrage—are absent from this Convention a good portion of the time. We hear and see announcements of meetings in which they expect to speak. I say that this has originated upon the basis of personal scruples against this subject, because neither of the great parties of the Territory dare come out and say that we do not want it. We came here instructed how to vote. When we got here this Convention showed a great majority in favor of this proposition. The supporters of the two political parties of this Territory dare not say nay to the proposition. The entire people of this Territory that voted last November, by their expressions through their party platforms, told us to come here and to grant equal suffrage to men and women alike, and after these votes had been taken again and again, we find that this small minority are getting in with resolutions and motions for delay, for postponement, to set aside the rights of the great majority of this Convention and of the people of the Territory. I hope, gentlemen, that we will now sit down upon this proposition and get down to work and stop this second campaign on this same proposition.

Mr. BOWDLE. Mr. President, I have sat

here I think for seven days and listened to the gentlemen about this question. I have never said one word in this Convention with reference to the question, but I am in favor of this proposition and I will tell you why. I am not afraid of the people; I am not afraid of the voice of the people; I believe the voice of the people generally is right. I do not know what the people may say, I do not know whether any petitions will come up here. I know that whatever petitions may come if they be by the tens of thousands will not change my conviction or my opinion upon this question. I have been somewhat slow coming to that conclusion, but I think I have canvassed it carefully and if the vote were to come this morning, or come next week, I think my convictions are so clear upon that subject, that it would not change. If I were to fear the people—that sovereign power that the gentlemen have talked about so much, I would pack my grip and leave the country, and hunt some lone island, and live in solitude, and not live among my fellows. I am not afraid to trust the people of this Territory on that question, or on any other question that may be submitted to them, but I expect to go before this people next fall, when it comes time for the ratification of this Constitution. I want to say to them, “we have given you every opportunity to be heard on every important question. We have not throttled your voice. We have listened to your petitions and now we come to you with the result of our work.” Suppose this thing should come to a vote this morning, with this proposition, fair as I presume, and as I believe it to be, and I fear that I might stand where a great many voters will stand next fall—if this proposition to make it absolutely and irrevocably a fact that woman is to have the right to vote, is put into the Constitution. I want to vote, and I want my vote recorded that I favor the people of this Territory settling the question as

to whether woman shall vote or not. I will be perfectly willing if it could be done that woman should settle it herself and that man keep his hands off, but that will probably be impossible, but I am in favor of the next thing that comes the nearest to that, that the people shall settle it. Suppose, as I stand here this morning, my name was called to that first article in this bill of suffrage. My present conviction would be that I could not support that, but I would, with all voice and power, support the proposition, and I will do it any time during this Convention, to submit it to the vote of the people, and by the verdict of that power that is above all other power in the State. I do not care if you make this a shorter time than three days, but give us who want our vote to be recorded upon that proposition, the opportunity. Mr. Ivins says, “Why cannot you do it now?” If you will do it now I am willing to vote upon it, but I want that vote to be in that way and I want my privilege to put it just in that shape. Therefore, I favor this proposition to recommit it, and recommit it to a committee of one and ask him to report within an hour if you want to, but give us that opportunity.

Mr. THURMAN. Mr. President, I think it ill-becomes a gentleman to stand upon this floor and ask if we are afraid to leave matters to the people. I want to know who it is in this Convention that is trying to give to the people a voice in public matters? One side of this Convention are contending that all the citizens of the United States, without regard to the mere accident of sex, shall have free and unrestricted voice in public affairs, and that side is being denounced by gentlemen and accused of trying to throttle the voice of the people. We are seeking to give the people a voice—all of them.

Mr. BOWDLE. How are you seeking to give them a voice?

Mr. THURMAN. We are seeking to say that every man and every woman

citizen of the United States, intelligent, and of requisite age, shall have a right and a voice in public affairs.

Mr. BOWDLE. Upon this question, how are you giving them a voice?

Mr. THURMAN. Upon this question the people have had their voice, and the representatives of your party—far more of them than you have in this Convention, have said that equal suffrage shall be given to women. Four hundred of your party, in solemn convention from all over the Territory, have declared upon this, and here, sir, you have only about forty-four who are trying to say they shall not have it. That is the situation of the party to which the gentleman belongs.

Mr. KIESEL. The people have changed their minds.

Mr. THURMAN. More than four hundred of the party to which I belong have said that women shall have suffrage and here you are trying to persuade about forty of us to say they shall not have it. The representatives of the people have spoken in thunder tones, and I say we ought to settle it, and settle it now. When it comes to the voice of the people, they have spoken. They spoke in primaries; they spoke in their conventions; we have declared ourselves upon this question, and say that it is improper—it is not right for members of this Convention to sign their names to notices for public remonstrances, and go and make speeches to these meetings and ask this Convention to wait until a meeting gotten up in that way shall have decided the question. I think it is wrong in every sense of the word, and repeat what I said yesterday. I say it is undignified in a Convention of this kind to delay for such a purpose.

Mr. HEYBOURNE. Mr. President, I am just as particular and as desirous of recording my vote as the honorable gentleman who preceded me (Mr. Thurman) in his remarks, and I desire, sir, that that vote shall be recorded, not

only in accordance with my own private feelings, but in accordance with the expressed will of the people whom I have the honor to represent upon the floor of this Convention. I claim, Mr. President and gentlemen, that this question that is now under consideration has received unusual consideration. Days of time have been spent and thousands of dollars have been expended in presenting this matter before the delegates of this Constitutional Convention, and after due consideration and deliberation, to which the honorable gentleman from Provo has just referred, we find organizations throughout this city and other cities of prominence, calling the people together, seeking to get their views and ideas with regard to this matter, notwithstanding the opportunities that had been given to some of the honorable gentlemen whose names appear in connection with these statements, that we find in the press this morning. We are, sir, in my opinion, giving to the people their rights. As I remarked upon this occasion before, I do not particularly view this matter that I am bound up by the Convention, or by those who sent me here, or by the agreements that were placed in the party platforms, so much as I look upon this matter as a matter of right and a matter of justice, and to come here now at this late date and state that we are trying to shut off the voice of the people, why this very proposition, sir, is what is giving to the voice of the people their rights and privileges. We are trying to establish in the coming State this important matter, that all classes shall have a right and an opportunity of being heard in the selection of those who shall govern and control them in the years that are to come, and I think, sir, that it would be, to say the least, unwise to go to work now at this date and postpone further action upon this matter. And I am just as tenacious, as I said in the commencement, that my vote should be recorded, as the gentle

men are who referred to this matter, and I trust that when this matter comes up it will be recorded in this way that all shall enjoy this right.

Mr. BUTTON. May I ask the gentleman a question?

Mr. HEYBOURNE. Yes, sir.

Mr. BUTTON. You say you are ready to record your vote and are willing that other people should theirs?

Mr. HEYBOURNE. Yes, sir.

Mr. BUTTON. How are you going to allow us to record ours?

Mr. HEYBOURNE. You have got the same opportunity.

Mr. BUTTON. We have not; that is all we ask.

Mr. HEYBOURNE. You have had it all the way through.

Mr. SQUIRES. Mr. President, I have very little further to say upon this subject, but there were some things in the remarks of the gentleman from Utah (Mr. Thurman), that are certainly unfair and unjust to the minority on this floor. He made the broad assertion that the minority present here were endeavoring to deprive the women of Utah of the suffrage. So far as I am concerned, I must deny that soft impeachment. I do not believe the gentleman understood the force of his remarks when he made that statement. All that the minority upon this floor has ever asked has been that this question be submitted in a separate article to the people. That is all that they now ask, and if a meeting is to be held to-night under the call read by the gentleman from Washington, with a view to having this matter postponed and not considered until the first session of the Legislature, I do not believe such a proposition will receive a single vote of this Convention. Gentlemen lose sight of the exact situation here. We are all united upon one proposition. I do not believe that there is a man within the sound of my voice, and especially those who are ardent woman suffragists, who has any doubt that

the people of this Territory when they come face to face with this proposition will give the suffrage to women. All that the minority asks upon this proposition is that they shall have that opportunity.

Gentlemen from the far counties, like the gentleman from Iron County, and the gentleman from Garfield, and the gentleman from Beaver, told us that they know the exact sentiment of the voters in their counties. We have discovered, who live nearer the center of the Territory here, or the center of population, that we have not understood the sentiment of our constituents. It has begun to dawn upon the people of Salt Lake City that there is a crisis here in the affairs of this Territory. They want statehood for Utah. They want it more than they want anything else. They are afraid, gentlemen, that if you put into this Constitution section 1 of this article as it appears here, without giving the people an opportunity to consider it separately, that in the end you will not have statehood, that all the efforts of this Convention, all the time and all the money will have been utterly wasted and we shall wake up to find that the Constitution which we have worked so hard to prepare will lie buried under the votes of the people. Now, I ask you, gentlemen, to consider which is of the more importance to the people of this Territory? Which do they want most? Is it statehood? Do we want this Territory represented in the halls of Congress by a man who can vote as well as talk? Do we want two men in the United States senate to stand up and re-enforce the element which is in favor of silver? Do we want that? I grant you that we do, and we want it so utterly that we are careful not to prejudice that by putting anything in this Constitution which will defeat it. That is the position which I take and the position which is occupied by the minority upon this floor.

Mr. ROBINSON (Kane). May I ask the gentleman a question? I understand you to say that if this be submitted separately it will no doubt be carried through?

Mr. SQUIRES. Yes.

Mr. ROBINSON (Kane). Then, why will not the Constitution be carried through if it is in the Constitution? If there is sufficient to carry the plank separately, why are they not sufficient to carry the Constitution?

Mr. SQUIRES. I will answer the gentleman if he is through. Because there is a widespread sentiment in this city to-day that says to the gentlemen composing this Convention, "Wait. Pause for a few days and give us an opportunity to be heard and, if you fail to pause, if you insult that large constituency in this county and in neighboring counties, who want to be heard upon this proposition, you will arouse an opposition against this Constitution that cannot be staid, and when the votes are cast and counted next November, you will find that the Constitution has been defeated." That is the position I take. I do not see any harm. I do not see how the gentlemen need to fear the delay for three days upon this question. It does not need to change your votes, gentlemen of the majority. It certainly won't change my vote. The possibility is that there won't be a vote changed in this Convention when the time shall have expired, but we shall have been courteous enough to listen to the appeals from the gentlemen who are interested on the other side of this question. We shall not have insulted the ladies of Salt Lake who are to-day to meet to consider this proposition. We shall not have antagonized men who are devoted to this Territory and who have it in their hearts that the star of Utah should shine upon that banner. I tell you, gentlemen of the Convention, it is time to pause and realize that a great course has been shown to the minority

upon this floor. I grant you that when great questions come before legislative assemblies courtesy is wise, justice is wise. Let us, gentlemen, accept this proposition from the minority. Let us give them this time. If the committee on elections and suffrage feel that they are slighted in this proposition by having a reference made to a special committee, let it go back to the committee on elections and suffrage. I care not so that they follow the instructions given to prepare an article for separate submission and so remodel the article before us to make it harmonize with such proposition. I hope that every gentleman upon this floor who favors the submission of this matter in a separate article in the Constitution will vote to recommit this question to the committee. I call the attention of the gentlemen to the fact that when this matter comes back in three days, it will be only until next Monday. To-morrow we take an adjournment on account of Arbor day. Sunday we certainly cannot do any work. We are not losing any of the time of this Convention. Our calendar of the committee of the whole is filled enough with work lying before us there to last us ten days at least, and when that report comes back we shall have an opportunity to vote upon this question, and I hope we shall have further intelligence upon this matter to enlighten the minds of the gentlemen of this Convention. I hope that this proposition will prevail.

Mr. RALEIGH. I wish to ask the gentleman a question.

Mr. SQUIRES. Yes, sir.

Mr. RALEIGH. You express your opinion that time will not alter the votes of the majority or the minority in this Convention?

Mr. SQUIRES. I said that it might not.

Mr. RALEIGH. What was your object, then, in asking for further time? That is the question I wish to ask.

Mr. SQUIRES. I believe I answered

that question in my remarks. We shall then avoid the insult which would naturally follow when ladies of this city are engaged only this afternoon in a meeting in which they desire to express their wish to this Convention on the subject.

Mr. RALEIGH. I would not want to insult the ladies.

Mr. SQUIRES. And another thing, the minority desire to record their votes on this proposition of separate submission, and we deem it that this is the only opportunity that will come to us in the course of the debate upon this question.

Mr. ROBERTS. Mr. President, when this question was up last evening, just before adjournment, I think that the gentleman from Salt Lake unconsciously paid me a higher compliment than he intended to. It is stated that the sentiment that is arising against woman's suffrage in our large centers of population was manufactured right here on this floor. I wish to say in answer to that, that I do not believe it. The sentiment was already there. This perhaps was the occasion of it making itself manifest, and I would rather, sir, have it made manifest now than to have it made manifest when the people come to vote upon the Constitution and be in a condition that they are compelled to vote against the Constitution, in order to express their deep detestation of woman's suffrage. This agitation has resulted at least in this: It has brought the fact to the mind of members in this Convention that all the world are not suffragists and all the people of Utah are not suffragists, and if gentlemen undertake to tell me that this question has ever been before the people of Utah upon its merits, I deny such a statement.

It never has been discussed on its merits. Now is the opportunity to have it so discussed and to have it finally settled and those who are in favor of suffrage shrink just from that

issue. That is the position that this question has assumed. I deny that this question was settled in the campaign of last fall. And it never has been discussed upon its merits, and gentlemen may get up here with what emphasis they will, but they cannot contradict that hard solid fact. Now, then we ask that this question be submitted in such form that in the forum of the people the eloquent advocates of this measure may triumph if they carry it to a victorious conclusion. Why do they shrink from the undertaking? Will they answer me that? I agree with the gentleman from Cache Valley. I too am tired of campaign politics upon the floor of this Convention, and that is just the position that this question has assumed. Sparring has been going on for advantage. Gentlemen connected with the party with which I associate undertake to get an advantage of their political opponents upon this floor to have them appear in the light of having somewhat withdrawn from the support of woman's suffrage. They are holding together upon that issue and I denounce it as peanut party politics unworthy of the great party with which I am associated. [Applause.]

No man on this floor, no democrat in the party with which I am associated, more earnestly desires the success of that party than I do, but, gentlemen, you must furnish me a better issue for winning party success in the Territory than the mere quibble of trying to put your political opponents in a hole. If democracy has sunk to that I denounce all such kind of leadership as unworthy of the great democratic party. I want to say to my republican friends that they have nothing to fear in this issue by insisting that this shall go before the people where it may be finally adjudicated. Whenever that sovereign power shall speak it is an end of the controversy. You now do as the majority upon this floor on this particular issue purpose to do, place it in the

Constitution and those who are opposed to woman suffrage have their mouths closed, for the simple reason that statehood is so desirable that they will even swallow woman suffrage, distasteful to them though it may be. I announce upon this floor that this is just what I would do, for I would rather have statehood with woman's suffrage than not have statehood. I had rather have a republican State than no statehood, however great I might consider that calamity to be. [Laughter.] I take it, gentlemen of the majority party on this floor, that you will lose nothing by going to the people upon this issue and insisting that this article shall be submitted as a separate article to the vote of the people. In regard to the objects named in this communication calling a general mass meeting for to-night asking that it shall be referred to the next Legislature, I know nothing of that, nor do I favor it. My understanding is that the object of that meeting was simply to submit this question separately to the people just in the same sense that it is proposed to submit prohibition to the vote of the people.

That far I am in sympathy with it and no further than that, and I cannot conceive how the majority party on this floor cannot fulfill every pledge it has made to the people by favoring submitting it as a separate proposition, and your opponents who undertake to make political capital out of your action, if you shall conclude to do that, will utterly fail and only reveal their own littleness as manifested in this issue. You have nothing to fear on that, but you have much to gain as they have much to lose for the reason that you take this action in order that you might give statehood all the better advantage of success; while they would be put in the position of risking statehood in order to get a petty advantage of their political opponents. My friends, your party boasts of its courage, it boasts of its

patriotism. I now appeal to it and ask you to remove this pretext against statehood by saying, "This shall be submitted to the voice of the sovereign people, and their answer shall be final." If you do not do that I want to tell you that this will forever be a bone of contention in this new State. Party success, party harmony is dear to me, but the attainment of statehood for Utah is still dearer to me. [Applause.]

Mr. IVINS. May I ask the gentleman a question? Did I understand the gentleman to say that he was not in sympathy with the proposition to submit this to the next Legislature?

Mr. ROBERTS. Mr. President, that was the call or representation that was made to me of the object of this meeting that is called for to-night. The gentleman merely wishes to read my signature to the call for that meeting. I wish to say to him that if the call is as he says, namely, the postponement of this matter for the action of the first State Legislature, I understood nothing about that. My understanding of the call for that meeting, and as it was explained to me, was that it should be to submit this proposition separately to the vote of the people. I understand Mr. Varian, whose name I believe is also attached, understood the matter in the same way.

Mr. VARIAN. If the gentleman will permit me—my name is not attached, but my name is mentioned there in connection with your own. I so understood it.

Mr. IVINS. I just wish to ask the gentleman when he signed this if he was not in favor of that proposition?

Mr. SHARP. Mr. President, I would like to state that I was with Mr. Roberts when this paper was presented to us, and it was just as he stated. We understood that it was to submit this question to a separate vote of the people, and we both signed that proposition without reading the paper.

Mr. EVANS (Weber). I desire to ask

Mr. Roberts a question. I may have misunderstood Mr. Roberts in his first remarks upon this question the other day, but I want to ask him now if he did not state then that he was opposed to submitting this question of woman's suffrage in a separate article?

Mr. ROBERTS. No, sir; I do not think I ever made any such statement.

Mr. CREER. Mr. President, I wish to say that I have endeavored to listen with great respect to what has been said by gentlemen who are opposed to taking decisive action upon this section now in consideration, and speaking to the motion—the remarks that have been made here this morning—I will say this, that over one-sixth, or perhaps one-sixth of our time has been expended in discussing this question, and much has been said by way of menace—endangering statehood if this proposition would be fairly presented before the people. I will say right here, gentlemen, that I will look with complacency—my mind has not been ruffled one particle or changed by the eloquence of the gentleman who has preceded me, not one iota, and why should it be? He says that the question has never been placed before the people and we now want this matter brought before them; I want to say this, that it is well known that in each of those platforms there was a prominent plank placed that they were in favor of female suffrage, and it is an insult to the intelligence of the people of this Territory to say that they did not understand what they were doing. Here was something adopted by four hundred men in each of those conventions—

Mr. CORAY. Mr. President, I arise to a point of order. The gentleman is not speaking to the question.

Mr. CREER. I am speaking to the question in this wise: This matter has come spontaneously, gentlemen, and it is unfair—it is unfair in this: Because we see here gentlemen absenting themselves, as I believe and infer from their

remarks, for the purpose of creating an agitation against this section as it now stands before us. I see two eloquent gentlemen, one from each party, who are announced to speak against the immediate action on this proposition and the placing of it in a separate platform. I want to say to you that the voice of the people has been heard upon this matter.

The standard bearer of the majority of those who oppose the action upon this matter, went through the Territory and announced himself emphatically in favor of woman's suffrage in all that that means—in all of its terms—Frank J. Cannon, your standard bearer. The result of it was that he received nearly two thousand majority of the votes of the people, and yet gentlemen say that this matter has not been discussed. It was discussed by your own champion, gentlemen, for I heard him myself, and the very fact that people took it for granted that there was no issue upon this matter, and now we want to say that this shall recur back to them and get the voice of the people or you will endanger statehood. Gentlemen, are you afraid of these menaces that are attempted to be brought before the people? It is unfair. It is unfair to the people of the Territory in this: You are in touch perhaps with those that are in sympathy with you, but the great majority of the members of this Convention are not and they could not be in the time that will be allotted to them. We have not the opportunity of getting out amongst our constituents, as you have, and create agitation. I am not afraid of the result. I am not afraid of these menaces. I can look with complacency upon them. And with all the eloquence and oratory that has been displayed here, it does not affect me one particle. It is said sometimes that rhetoric is the art of making people believe things that are not so, and it seems to me that that has been the endeavor here in this Convention—at-

tempting to make the people believe that this matter has not been before the people. I say that it has been before the people and furthermore it is known right around us here—the states on the east of us and all have acted upon this question. It is not a new question. It is something that is understood by the great majority of the people of this Territory. Therefore it is no use, gentlemen. You can not move me, not one iota, by your attempt of oratory, of agitation. I am going to rely upon my own sober judgment in this matter, and I am ready to vote upon the question. What could you do in three days? The gentlemen ask for this motion simply to defer it for three days. Can you reach all the conditions, I say? What has been said with regard to the petition for prohibition? You talk about the voice of the people—have any of you incidentally remarked or said one word about the voice of the people in that particular?

Mr. ROBERTS. Will the gentleman answer me a question?

Mr. CREER. I will try to.

Mr. ROBERTS. Is the question of prohibition up yet?

Mr. CREER. It is not, only as it came here by a petition, but I say incidentally, have you had such regard for the people—

Mr. ROBERTS. Has it been reported back by the committee?

Mr. CREER. No, sir; I concede that.

Mr. IVINS. I would like to ask Mr. Roberts a question.

I would like to ask him if he is not the first man that introduced the question of prohibition in this debate in connection with woman suffrage?

Mr. HALLIDAY. What is the question?

Mr. IVINS. I wanted to ask Mr. Roberts if he was not the first person that introduced the subject of prohibition into this woman suffrage debate?

Mr. JAMES. I arise to a point of order.

Mr. ROBERTS. I would like to answer the question of the gentleman by asking him another. What point is there in his question, if I was the first one to introduce prohibition?

Mr. IVINS. I think it is a matter of bad grace to spring—

The PRESIDENT. The gentlemen will take their seats. Mr. Richards has the floor.

Mr. RICHARDS. Mr. President, I am opposed to this motion. It seems to me that this Convention has gone just as far as it can go in the direction of listening to these remarks in opposition to equal suffrage and in delaying the work of forming a Constitution for the State, without submitting itself to ridicule, and if the members of this Convention had heard the criticisms and comments of their constituents that I have heard concerning the conduct of this Convention during the last eight or nine days, they would hesitate and pause before they would insist upon keeping before this Convention a subject that is a continual agitation and will be a source of agitation just so long as it remains before us under consideration. It is time this question was disposed of, and I want to answer some of the questions that have been put here—put in that tone and manner that have prevailed during the whole of this discussion on the part of the minority. In a manner of arrogance—in a manner as though the questions put were unanswerable, that no man could answer them—what do they say? They say, “Are you afraid of the people? The reason you are unwilling to have this submitted in a separate proposition?” No, it is because I have faith in the people that I want it to go into the Constitution, for I know they will not vote against the Constitution. That is the reason I want it there and when men stand up here, and tell me that those who favor placing it in the Constitution are afraid of the people, I say no.

By that very thing we demonstrate our confidence in the people. It has been said here again and again that this issue was not before the people. I remind the gentlemen that denial and denunciation, however emphatic it may be, is not proof, and it counts for little in the face of the history of the Territory of Utah, and the two great political parties that are represented by the delegates on this floor. Their party platforms speak. The votes of the people on election day speak. And I say, as I have said before on this floor, that I came here as did every other man with the understanding on the part of the people who elected me that I would help to form a Constitution, and in that Constitution, not as a separate article, should be a provision for equal suffrage, and I say I am here prepared to do that work, and when any man stands in this presence and tells me I am shrinking from any issue, I hurl it back and I ask him to look at himself if he wants to see somebody who is shrinking from the issue. [Applause.] And then when the terrible alternative is submitted to us that if we submit this proposition in the Constitution we shall shut the mouths of the opponents of it! Oh, I realize what a terrible loss it would be to the people of Utah to have some mouths closed [applause], and yet gentlemen, with a sense of appreciation that I have of my duty as a delegate, I am even willing to meet that terrible alternative and say that even if it be so I take the terrible consequences of it. I believe in putting this proposition into the Constitution. I believe it because it is right; I believe it because it is just; I believe it because it is expedient, and when men stand here in this presence and tell me that the people of Utah will reject the Constitution that we are framing on that account, I say, gentlemen, with all deference and respect to you, even to the prophetic utterance of my friend from Salt Lake when he says that this Constitution will be defeated,

you do not know the people of Utah as well as you think you do, and if any man stands in this presence and tells me that that will be a stumbling block in the way of the executive of this nation, or any officer in this nation, in causing the admission of the State, I tell that gentleman, whoever he may be, that he is misinformed and I know whereof I speak. I say it is not only unjust, as was said by my colleague from Weber County in speaking of the chief executive of this nation, to say that he would be guilty of an act of tyranny that no man in a free government—no officer was ever guilty of—I say that that is not only unjust, but it is untrue, and I know it is untrue and so I tell you, gentlemen, that these fears held up before you are like the night visions of a dream and they will vanish like the mists before the sunshine in the light of experience. And now, before I sit down, I want to read you one more testimonial in favor of equal suffrage, a telegram that was received yesterday by his Excellency, Governor West, from Governor Richards of Wyoming:

(Reads.)

Your letter miscarried. Just received. Woman's suffrage has been in successful operation in Wyoming for twenty-five years. Its tendency is to elevate politics, and secure better public service without any bad social effects.

And with all the talk that has been had during the discussion of this question about the effect upon the home, who has ever pointed to one family that has been disrupted by it? Now, gentlemen, I say this is a part of our duty. We are here to frame the Constitution. These people did not send us here to make a Constitution and a separate article for equal suffrage. I am for this plank in the Constitution, first, last, and all the time, and I ask that we adhere to the regular order.

The PRESIDENT. Mr. Varian claims the right, which will be granted under the rule, to close the debate.

Mr. CANNON. Mr. President, I have been somewhat surprised at the tone of the gentleman from Davis County in advising the republicans of their duty. I was pleased, however, at the way in which he appealed to the republicans, for whereas he appealed to the democrats in the way of a threat and told them what dire calamity would fall upon the party; when he did appeal to the republicans, it was to their patriotism and to their honor. At the same time, I do not recognize the right that that gentleman or any other gentleman has upon this question to say how, as republicans, we shall vote. In that which the gentleman has presented from time to time he has assumed the position of being absolutely pure himself; of having the highest motives, and every other man was bound by some paltry party pledge. Every other man has been bound by something which appeals only to his political ambition, and he alone of all who have appeared here has stood out filled with honor and integrity. Why, in looking at the position that he assumes, I almost could exclaim with Job—

Mr. BUTTON. Mr. President, I arise to a point of order. I do not think there is any use of one man abusing another in this debate. He is not speaking to the motion in any shape or manner. He is talking to another gentleman upon this floor.

Mr. CANNON. The gentleman can make his speech after I am through.

Mr. BUTTON. I make a point of order.

The PRESIDENT. The gentleman has not any right to castigate any member on the floor.

Mr. CANNON. How is that?

The PRESIDENT. One member should not cast personal reflections on the floor on another member.

Mr. CANNON. What is the ruling of the chair?

The PRESIDENT. The ruling of the

chair is that these personal reflections that have been going on are not proper.

Mr. CANNON. That being true, and nothing personal having been said in the past by any one, I shall discontinue my remarks upon that particular subject.

Mr. FRANCIS. Mr. President, I was going to ask a question. Should not this delegate be allowed the same latitude as Mr. Roberts and others have upon this position? Those men were not asked to sit down or stopped when they were talking this way.

Mr. ROBERTS. Let him go on.

The PRESIDENT. Gentlemen of the Convention, I look upon this matter as somewhat serious. Mr. Roberts has made no personal mention of anybody here. It is true, his remark was a general one upon the whole Convention, but Mr. Cannon takes Mr. Roberts or mentions him almost specially in this matter, and points him out and speaks to that end, and I think it is an improper thing for us to do. These matters have gone too far in that direction already. [Applause.]

Mr. CANNON. I say, this having been the first time that personal allusion has been made by any member in this debate, I withdraw my remarks. [Laughter.] One thing, however, Mr. President, has been said, and that is, that the people of Utah have never had this question before them on its merits, that it has never been discussed. Now, for the first time we have wise men who appear and who consider this subject. Is that a fact? I deny the assertion, and I say that he who asserts it casts a reflection upon the men who, in the past, granted to women in the Territory of Utah the right of suffrage. I claim that in the body of men who gave first the right of suffrage to the women of Utah were men who were the peers of any man upon this floor, were men whose wisdom, whose knowledge, if not their oratory, whose works, as evidenced by that which

they performed for this Territory and this commonwealth, will compare with any who are here, or probably any who shall come after, and when the assertion is made, that those men thoughtlessly, without due consideration, gave to women the right of suffrage, I deny the assertion and declare that it is absolutely untrue. I claim that, as has been asserted before, the sentiment which has been aroused in this community at present, is one which arose principally from the statements made upon this floor; that it was here that the sentiments originated, and that while, perhaps, in the breasts of many outside, that feeling lay dormant, and that it has only been awakened as has been stated, at the same time, I claim that the proceedings that have taken place here have aroused it, and that there are still causes as well as those which appear upon the surface. The gentleman from Salt Lake County who spoke this morning in favor of deferring this matter, takes a different position from that which he assumed the other day. When this record is made of that which is said, my speeches placed side by side will read alike, and will not contradict each other. The gentleman declared the other day that he had heard from his constituents, that upon the stump in the twenty-seven precincts of this county, he had stood before the people and had advocated equal suffrage, that the sentiment was satisfactory to his constituents, and yet to-day he gravely rises in his place and says he has not heard from his constituents and desires to wait to hear from them.

Mr. JAMES. May I ask the gentleman a question?

Mr. CANNON. Certainly.

Mr. JAMES. Did the gentleman from Salt Lake make the statement that he raised those questions in the twenty-seven precincts in this county? I understood you to say so.

Mr. CANNON. The gentleman stated

that in the precincts where he stumped in this county, and that was nearly all of them, he took the position that he favored absolutely the granting of woman's suffrage.

Mr. JAMES. Did he make the statement on this floor?

Mr. CANNON. Yes, sir; and a reference to his speech will show it.

Mr. EVANS (Weber). I will submit—the gentleman is right here. He is not making any denials of it.

Mr. SQUIRES. I trust the gentleman will not be interrupted. I will reply to him when he gets through if I have permission.

Mr. CANNON. I claim it is not at this time only that which appears upon the surface, and while I favored yesterday, and favor to-day, deferring this and going into the committee of the whole, because by so doing we would not displace it in its position on the calendar, at the same time, I would not favor this motion to recommit. There is an element in this community, as there is in every community, which takes a stand and seeks to entrench itself, that which has been referred to before as the liquor element; and I have it from a member upon this floor who stated to me that he knew a man who deals in liquors who had said that he would be willing to write his check for five hundred dollars if woman's suffrage could be defeated in this Convention.

Mr. HART. Mr. President, I am opposed to the appointment of this special committee, in the first place, for the reason that if it is recommitted at all now, it should go to the committee on elections and suffrage, the gentlemen who have had this question under consideration since their appointment. They were some nineteen days, Mr. President—or until the nineteenth day, at least, of this session before they made their report upon this question. Now, the gentleman comes in here with a proposition to undo this work and to

refer that matter back to them with instructions to come in and report on something entirely different from what they have reported. The gentlemen upon this floor claim that it is only fair to them to do this work, for the reason that they have an opportunity to vote in favor of submitting the article in a separate proposition. I ask the gentlemen if they will not go on record now when they vote for committing this proposition directly upon the proposition of a separate submission of this article? I am glad they will have an opportunity to place themselves on record in this way. I take it that every person that votes for this will vote in favor of separate submission, and as that is the absolute instruction to the committee, and whether it goes to the committee on suffrage or to a special committee, they would have to make the same finding and same report in line with the instruction of this body.

Mr. BOWDLE. May I ask the gentleman a question? How would that put us on record as opposing—simply voting for a resubmission? •

Mr. HART. Why, that is the very issue, Mr. President, that we vote upon, is to instruct them to come in with a separate article. If that is not a sufficient way to put you on record when you vote either for or against this main proposition on the ayes and noes, you can go on record there. You can defeat that proposition if you wish to there and then have the proposition come up in a different way. Why, Mr. President, they talk about the advantage and disadvantage of this situation in putting themselves on record. I ask you what would be the result if this committee are appointed and instructed to bring in a proposition for separate submission? Why the result would be simply this: After we voted it down we would then have no report before us. We would have nothing to act upon, and we would have to go to work and go over this whole ground

from beginning to end. I am, therefore, Mr. President, opposed to the separate submission.

The assertion has been made at numerous times upon the floor of this house that there has been no discussion of this question. If there was no discussion of the question last fall, it was the entire fault of those who are opposed to woman suffrage. It was not because of those who favored it. One of my colleagues from the county that I come from, referred yesterday to the fact that he had not heard the matter discussed in our county. I want to tell him that this issue was talked from every platform in every precinct in our county. I never made a speech during my canvass as a delegate for this Convention, but that it was made a prominent feature of the evening, and not one dissenting voice was heard to my knowledge upon this question. The gentleman from Davis asks why should men shrink from the issue? I ask him who it has been that has been shrinking from this proposition all along? I hold, sir, that it is in poor taste coming from the other side of the house to talk about shrinking. If it had not been for a cowardly shrinking upon this question, there would have been more discussion upon this proposition last fall, and the only reason that it was not discussed was because there was a shrinking. I do not refer to the gentleman from Davis County as being one of the shrinkers, or shirkers, but I say even in his case, that this proposition might have been sprung, that this Coxey movement might have been agitated and brought on a little earlier in the day, and not have waited until the eleventh hour. The gentleman has arraigned the motives of myself and of every other democrat upon this floor. In the first place he has arraigned the motives of the democratic convention, as well as the republican convention. He says that the democratic convention put that plank in its plat-

form for mere claptrap and expediency purposes. I want to say that I was a member of that convention. I know a great many other gentlemen who were members of that convention, and I know their motives. I know the motives of the gentlemen, many of them, who were on the committee that framed this proposition.

There was Captain Ransford Smith (honor be to his name and to his memory), who was in favor of this proposition, because he believed in it and as he expressed it, because he had always believed in the proposition. Mr. Thurman and other gentlemen were members of that committee, and while I am not prepared to speak as to the private motives of the members of that convention, I do know the motives of some of them, and I know that they voted for it as a proposition in that platform because they believed in it. The gentleman goes further. We have given him so much rope in this Convention and have submitted so long to his arrogance that he comes in this morning and denounces his democratic associates here as peanut politicians, as I understand it, and he says we are holding back here for the purpose of putting republicans in the hole. I deny it, sir, and I say for one that I have no such purpose and I have not seen anything in my democratic associates to make me believe that they entertain any such idea. I ask, Mr. President and gentlemen of this Convention, "Upon what meat doth this our Cæsar feed, that he has grown so great?" as to come here and challenge the motives and purposes of members on this floor and of the democratic party of this Territory? Why, gentlemen have actually had to come upon this floor as I have and deny that they had improper motives. I say, Mr. President, that it is a shame that any member of this house should be called upon to stand here and deny that unworthy motives have actuated him in the stand that he has taken.

Mr. LOW (Cache). Mr. President, I desire to say a few words in regard to my opposition to the proposition presented by the gentleman from Salt Lake (Mr. Varian), for consideration this morning. First, I deem it irregular, as explained by my colleague from Cache County, who has just taken his seat. Second, it passed the committee of the whole with just such a form of rider in different language from that which was presented by the honorable gentleman from Salt Lake and was defeated by a large majority in that committee. If that committee had seen fit to offer its opinion upon this proposition, it would have referred or recommitted or recommended it to the Convention, with a suggestion that it be recommitted to the committee in which it originated. That committee having been ignored in the form of this motion presented this morning, it is irregular.

If there could have been any objection to the proposition it might have been put in a regular form, gone through the regular routine of business to the committee who rendered the majority report on the 19th day of our session, just two weeks ago. I call your attention to the fact that they could have had this question referred back, as was the question from the committee on education, for simplification and modification, but there was not that consideration given to it. The zealous defenders of that report attempted to have a special day set for the consideration of their report out of the regular order. The gentlemen who were considered to be fair on the floor of this Convention, should have been willing in their zeal to pass upon the question that it should come up in its regular order. Gentlemen, the committee submitted to this with very good grace. It did not come before the Convention for consideration for seven days. In that time there was ample time, I say, for the consideration by the opponents of this question to

raise the issue which is now sought to be raised upon this floor. We had a substitute or an amendment to this question when it was in committee of the whole, which denied all suffrage to the female sex.

A majority of this Convention promptly repudiated any such an amendment, as did they also the attempt on last Monday to introduce here a substitute providing that this question should go for separate consideration to the people for their acceptance or rejection. I too have heard with a great deal of wonder the expression that has been made upon this floor that gentlemen who were elected by the votes of the people of this Territory as delegates to this Convention have not heard the question discussed during the campaign. I want to state to the gentlemen who have made these assertions that the very question which they have denied having heard was the question which I cut out of the newspaper at the time—the two clauses referring to this question of equal suffrage to women, and placed them in my hat, and I want further to call the attention of gentlemen upon this floor, who have come from other counties from that from which I came, and in whose counties I was permitted to speak from the rostrum in favor of woman's suffrage, and the differences of opinion between the two national parties, if it was not a question for immediate and ample discussion before their constituency? If I am wrong, if they can state that I evaded the question in their own counties, I desire that they shall rise upon this floor and make it known. On the other hand, I state here, without fear of contradiction, that it was made the issue. Because gentlemen like the honored and eloquent gentleman from Davis County had preceded me in different sections of country, representing the same party that I represented upon the stump, and covered questions of importance and difference between the

two parties nationally. It was only left to me, at the suggestion of the chairman and members of the county committee, from which I went, that I should follow with something different and they themselves—not of my own choice, but they themselves assigned the difference of position assumed by the two parties on the woman suffrage question, and it was made an issue with not less than two meetings a day for a whole week. That is my position upon that matter. I can also reiterate what my colleague from Cache County has stated, that when I had the opportunity of presenting it before my constituents in the county from which I came, I there told them my position on this matter. That was the opportunity to deny me the privilege of representing them in this Convention, if they so chose.

Oh, how have the mighty fallen, Mr. President? The able champion of one proposition here was compelled to resort to a subterfuge in a suggestion that has been made—the first argument that we have presented by his eloquence on this floor was against suffrage for woman at all. Now, we have the same question championed by the same individual that it should come before the people as a separate clause. I object to it more particularly because the gentleman has assumed to change his position in the least, and furthermore, I wish to further the expression given vent to by the gentleman from Davis County, that had the position of the two parties, as far as the majority is concerned upon this floor, been reversed, I express my personal opinion, Mr. President and gentlemen of the Convention, that this question would not have hung fire so long as it has. He appealed to the gentleman of the majority—appealed to their patriotism, when he said "You will not lose anything," hoping that from that majority this question would be pushed through, because there was a force and power in the majority against the minority. I am against the ques-

tion being submitted as proposed by the gentleman from Salt Lake.

Mr. HEYBOURNE. Mr. President, I move we take a recess until 2 o'clock.

Mr. EVANS (Weber). I move as an amendment to that motion, that we do not take a recess until this motion be disposed of.

The question being taken on the motion for a recess, the Convention divided and by a vote of 48 ayes to 51 noes, the motion was rejected.

Mr. MURDOCK (Beaver). Mr. President and gentlemen of the Convention, I realize this great fact, that I am surrounded with critics, and I only crave earnestly the voice and the language of some of my colleagues here upon this floor. But it is, I believe you will agree with me, as I stated when I was on the floor perhaps a week ago, that this was a very important question. I so regard it to-day. That I do not think the time is thrown away in looking at it and investigating this matter, and that the committee on finance—perhaps there may not be another man upon the floor that will be in harmony with me, but that his suspicions may be relieved, I am willing to spend my time gratis upon this question from first to last, so that if we have thrown away time, I am willing to throw away mine. I do not know whether there is any one else that will do so or not. I am opposed to the motion that has been presented here this morning, for this reason: I am pledged to my constituents. I am one representing in connection with my colleague one county, and I know what their minds were then, and I have not heard anything to change it from them yet, and I am opposed to it, because they are opposed to it and got my pledge that I would not accept a separate bill to be placed before the people and voted upon, but that they wanted it in the Constitution. I was willing to give my pledge that it should be placed in the Constitution. I also pledged myself that I should labor in

the interest of equal suffrage with all, both sexes, irrespective of sex or any other thing that might be brought forward, and as we investigate this matter we find that it becomes a very important matter.

It has been stated here that this feeling that now exists throughout the county is something that has sprung spontaneously in the minds of the people. There is always a starter for anything that amounts to any importance, and it is started upon this floor, gentlemen. It started right upon this floor—this opposition, and the friends of those opposed have talked for and against, and it has gone broadcast throughout the country, and of course people are taking sides now. There are many people that are led away with fine speeches. I realize this fact, but that does not make a truth. A truth may be told in very mild and very easy and very unimpressive terms, and there are many people perhaps it would not affect, but nevertheless it is a truth, and I do not care in what eloquent terms a matter may beset before a people nevertheless it may be an error, although it may impress those that have been here. Now, I was at both conventions. I was at Provo and the building was as full at it possibly could be, both in the gallery and on the floor, and what was the feeling there manifest? They endorsed it with a rush, with a zest that is uncommon in most meetings, but it was nevertheless here in the theater, here in Salt Lake, perhaps a week afterwards. I was at that as well, and everybody was there that could get there. The house was jammed from garret to the parquette, as full as it could be got, and the people there partook of the spirit that was manifested, and what was the main feature? One of the main features in both conventions was the woman's suffrage, and then for men to come here and tell that they had heard but little or nothing about it; it was put into their papers throughout the length and

breadth of the land, and that instead of opposition, and every man that has spoken in the southern part of the Territory, his attention was especially called to that feature of the situation, and it is upon that ground that I was nominated and was elected to come here and serve the people, and there is no feature, gentlemen—there is no feature that womankind admires more than a brave man, and there is no feature that I admire more than I do a brave man. I am not afraid of opposition. I am not afraid of contest. If anybody can fetch anything that is reasonable to overcome me, why I am willing to submit as I have said—give an error for a truth.

We have heard from the different states where they have had woman's suffrage and it is all in favor of woman's suffrage. There is a terrible hue and cry because it happens to be brought forth here in Utah. It is not new in Utah. We understand how the matter stood years ago, and we understand very well how it will exist now. We cannot help any—either men or women from acting foolishly when they get the ballot in their possession. We cannot help that, but I say it is equal and I say it is debarring one portion of our community of going forth and taking part in the interests of the common country. Are not the women equally interested in the family circle and in everything that goes to build up a state—are not they as much interested as are the men, the fathers, the sons, the brothers? Are they not? I say they are, and they should have a voice, and when we talk about intelligence, we are willing to admit that they are equal—

The PRESIDENT. Mr. Murdock, you are getting away from the question. The question is to commit this thing.

Mr. MURDOCK (Beaver). Well, I am not in favor of it [laughter]. When it was sought to give the colored man his franchise, was there a proposition sprung that they should have the privilege of saying whether they wanted

their franchise? No. It was given to them without asking them. There was a declaration made that they should have their franchise, and I say we could certainly pay as much respect and repose as much confidence in the woman part of our community as was bestowed upon them, and for this reason, and I say emphatically that the excitement that has circulated among the people has sprung from this floor. Here is where the seeds were planted, and here is where that started from.

And, as I saw in the paper that is printed in one of the adjoining counties, an individual rose up in a meeting and said that if that went into the platform—woman suffrage—what would he do? He would go to Washington and he would use his utmost influence to defeat the statehood bill. That is the feeling I presume amongst many men. I am for statehood and I am for equal rights, and I want both parties, both male and female, to have equal rights in this matter, and if they have got intelligence, let us use it, it is ours, we should have it. Are we afraid of numbers of voters? Perhaps it might augment our numbers to double the number. That is to-day, and what would that amount to? Perhaps eighty thousand voters. Are we not associated with states that have their millions of voters and they are controlled proportionately—reasonably, and I say I am opposed to the bill to postpone or to put it into the hands of any other committee. It would be paying great disrespect to the majority report that was brought here, and consequently I am thoroughly opposed to such a move. I am not afraid of the arguments that are brought forth. I do not care how eloquent they are, but I am in favor of justice; I am in favor of right, and I am in favor of bringing my wife, my mother, my daughter, up to my side and giving her a fair show, and if she is ready and willing to act reasonably and consistent and not ask more than

what would be consistent in her condition, why I will risk her. I will risk her with men.

Mr. ROBINSON (Kane). Mr. President, I have somewhere read: "If days should speak the multitude of years would teach wisdom." There is a little more there. Some might say I should apply it to myself. I am sorry, gentlemen, that the people sent men here to represent them that did not know the people and that did not know the sentiments of the people. I came thoroughly acquainted with the feelings and ideas of my constituency, and I have since received letters from a representative body of women in mass meeting asking that a clause be inserted in the Constitution of the new State of Utah granting women equal suffrage the same way that they have an equal right to pay taxes with men. The proposition seems to be, Mr. President, that the members want to put themselves on record as voting for or against woman suffrage, not as it stands as proposed by the committee on elections and rights of suffrage, but they want it to be submitted. I will propose a plan. If there is any friend here of that proposition, that they move to strike out the first three lines of section one—the word "sex," and insert the word "all" in the place of both and strike out the words "and female" in the fourth line and then propose by a separate proposition that the vote be submitted on a separate article to the voters in regard to woman suffrage. Then they will get this question before the meeting and can vote on it at once and pass on, and we will not waste so much time as we have been doing. They can state their feelings and sentiments in that way. This idea of delaying it is preposterous.

Mr. HAMMOND. Mr. President, I am opposed to this proposition. I have listened and kept my seat nearly during all these days of this discussion, sometimes with pain and sometimes with

pleasure. More often with pain. I think that it is well that we cease playing to the gallery and the gods and come down here and play to actual men and women, that have this matter before us to dispose of. Now, I submit this, that the light comes from the south in this hemisphere. I have been where I had to look north for the sun, but in this latitude we look south for the light. Now, if they will hearken to the voice of San Juan [laughter] they will come to the light; there will be no trouble at all, but this dark shadow that has arisen in the north seems to have paralyzed a great many of the people and some members on the floor of this Convention. I remember in my boyhood that the gunners on Long Island had to go out in their little batteries and stick out a whole lot of stool ducks to decoy the ducks flying from the east, and down they would light on those stool pigeons or ducks, and every last one of them was killed. So I look upon this largely. It is a stool pigeon set up to decoy the ducks, whether they are democrats or whether they are republican ducks, they calculate to kill them. Now, I submit we close this thing up and go into business and do something to justify our positions here upon this floor.

Mr. HOWARD. Mr. President, I am opposed to the article presented here submitting this as a separate proposition to the Constitution for the women to vote on separately, and I will give a few of my reasons. As my friend Mr. Creer, said, this question of woman's suffrage has been before the people for the last seven months. I know it has been before the people of Emery County, and was constantly kept before them by the uncertainty of the political complexion of this Convention, even up to the organization of the Convention. And if the people of Salt Lake or any other important center have lost sight of it, it is their own fault and not the

fault of the people of the Territory. It is said now that this question has not been discussed; I know better. It has not only been discussed by the people, but was discussed in the papers. The Herald claimed the proposition in the democratic platform was emphatic and meant just what it said, and that the few words put in the republican platform did not mean anything. The Tribune came to the rescue and said that they meant just what they said and were just as emphatic as the democrats dared make it, and that the women of Utah should have the right of suffrage. We are asked in an excited manner to pause for a few days to be heard and that it would be an insult to the ladies not to wait on them. I claim, Mr. President, it is no insult to go ahead and do our business and our duties, but on the contrary it is an insult from those who are agitating this question to ask this Convention to stop and wait, I think. It is child's play to come in now and say, "I forgot all about it, and we demand that you wait on us." It is said by the opposition that it will endanger statehood. I do not believe it. I believe the people of Utah are sincere in their demand, and if all could be heard from, we would have an overwhelming majority in favor of it, and the song that has been sung for the last twenty-five years about here, is out of place at the present time. Those who are against woman's suffrage are insulted if they are asked to change their minds on this question, but they demand in excited terms that those in favor of it do change theirs. I am opposed to submitting this question as a separate article, and shall vote against it.

Mr. PIERCE. Mr. President, I move we take a recess until 2 o'clock.

Mr. EVANS (Weber). Mr. President, I move as an amendment to that, that we do not take a recess until—

The PRESIDENT. The motion before the house is to take a recess until 2 o'clock.

Mr. EVANS (Weber). An amendment is in order.

Mr. VAN HORNE. Mr. President, I arise to a point of order.

The PRESIDENT. I do not see how it is possible to amend a motion to take a recess.

Mr. EVANS (Weber). I am only amending it as to time.

Mr. WHITNEY. Mr. President, I thought it was already decided that we should not take a recess.

The question being taken on the motion of Mr. Pierce, the roll was called and showed the following result:

AYES—44.

Adams	Lewis
Bowdle	Lund
Button	Mackintosh
Christiansen	Maloney
Crane	Maughan
Cushing	McFarland
Eichnor	Page
Eldredge	Peterson, Grand
Emery	Peterson, Sanpete
Gibbs	Pierce
Goodwin	Ricks
Green	Roberts
Haynes	Ryan
Hill	Sharp
Hyde	Shurtliff
James	Spencer
Johnson	Squires
Kiesel	Stover
Keith	Strevell
Kerr	Van Horne
Kimball, Weber	Varian
Lambert	Wells.

NOES—52.

Allen	Kimball, Salt Lake
Anderson	Larsen, L.
Barnes	Larsen, C. P.
Boyer	Lemmon
Buys	Lowe, Wm.
Call	Low, Cache
Cannon	Maeser
Chidester	Miller
Clark	Morris
Coray	Murdock, Beaver
Corfman	Murdock, Wasatch

Creer	Murdock, Summit
Cunningham	Partridge
Driver	Peters
Engberg	Preston
Evans, Weber	Raleigh
Farr	Richards
Francis	Robertson
Hammond	Robinson, Kane
Hart	Robison, Wayne
Halliday	Snow
Heybourne	Symons
Howard	Thompson
Hughes	Thoreson
Ivins	Thurman
Jolley	Whitney.

ABSENT—10.

Brandley	Nebeker
Evans, Utah	Thatcher
Kearns	Thorne
Lowe, Peter	Warrum
Moritz	Williams.

The President declared the motion to take a recess lost.

Mr. CHIDESTER. Mr. President, I move to lay this motion on the table.

Mr. VARIAN. Mr. President, I rise to a point of order. That requires a suspension of our rules.

Mr. ANDERSON. Gentlemen, I had the floor before that motion was made.

The PRESIDENT. The gentleman had the floor.

Mr. VARIAN. The point of order takes precedence of a discussion.

The PRESIDENT. The gentleman's point of order is, I think, well taken.

Mr. ANDERSON. Mr. President and gentlemen of the Convention, I am certainly opposed to this proposition submitting this clause back to a special committee. The committee that had this under consideration considered this question well. The same proposition was suggested and we considered it well, and that committee was composed of fifteen members, and twelve out of the fifteen reported in favor of the article as it is presented to us, and now this proposition is to refer it to a special committee, instructing them to

draft an article for the very purpose of submitting this to the people. Well, I am opposed to submitting this to the people, because I think that it will intensify and prolong this bitter acrimonious feeling that has been engendered throughout this discussion. I claim that it has been before the people, that they have had ample time to consider it. As it has been stated, it was contained in both platforms of the parties. We are all of us elected on that very platform. Upon that very principle we were elected, with the very expectation of putting that into the Constitution, and just so long as it was thought to be a foregone conclusion that it would be incorporated in the Constitution, there was no opposition.

I claim that we were sent here for the very purpose of inserting that in the Constitution, and if we do so we will have done our duty, and all of this feeling, all of this bitterness that has been engendered, will cease. Those that are opposing it will accept the situation, but if we submit this to the people, why, it will only intensify it. It will keep getting worse and worse and probably the very fears that are expressed, they might be the means of accomplishing; if these fears are well founded we do not deserve statehood. We do not want it. I say, put this into the Constitution and if the fears are well founded, vote it down. We do want statehood, but I claim that we were sent here specially upon that platform. It has been before the people. They have considered it, and I, for one, every place where I spoke, specially pledged myself, and besides this, I think it is right by conviction and I can consistently take no other course. The opposition appeal to the very worst attributes of our suspicion and distrust. I do not think that they believe the fears that they have expressed themselves. It is being most bitterly fought by those who are opposed to prohibition, probably because they think that the vote of the

women will endanger them, but they dare not express that fear, but they try and work upon the suspicion and distrust of the people. I am opposed to this proposition and in favor of the original article and will vote against any amendment and all substitutes that may come up.

(The President here called Mr. James to the chair.)

Mr. KIESEL. Mr. President and gentlemen of the Convention, Mr. Creer has alluded to absentees. I was at home several days. I was ill, I did not, as he intimated and insinuated—am I right, did you allude to me on account of absence? I was away several days.

Mr. CREER. No, sir; not specially, I was speaking of members from Salt Lake.

Mr. CANNON. Mr. President, I arise to a point of order.

Mr. KIESEL. That was in your mind, wasn't it?

Mr. CANNON. My point of order is that it is desired of the Convention not to have any personalities.

The PRESIDENT pro tem. Mr. Kiesel, do you rise to a question of personal privilege—some explanation?

Mr. KIESEL. All right.

The PRESIDENT pro tem. You must be in order.

Mr. KIESEL. The gentleman has alluded to absentees. I am one of those absentees, and I want of course to set myself right before this Convention.

The PRESIDENT pro tem. You have the privilege of proceeding, Mr. Kiesel, under that.

Mr. KIESEL. I was at home on account of illness. I did not agitate. I did not attend any convention at home. Another gentleman already speaking probably had received already garlands and flowers, but the sentiment has undergone a change in all this discussion that we have had here in this Convention; why gentlemen claim and parties claim for themselves that all these matters have been discussed, I

have yet failed to see. There is not one of them that has admitted and said that women are in favor of it. I hold that the women of Utah are not in favor of it. I admit that there is a society existing in Utah—a very estimable body of ladies—the Female Relief Society, an adjunct of the Church of Jesus Christ of Latter-Day Saints, and those are the ladies that have worked up sentiment, while on the other side there is a large body of ladies that do not want, and are not in favor of woman's suffrage.

Mr. FRANCIS. Mr. President—

Mr. KIESEL. It is no use mincing matters. This is the sentiment that prevails in Utah, and I simply give expression to it.

Mr. FRANCIS. I wish to say that this gentleman is proceeding to a great latitude under question of privilege.

Mr. EVANS (Weber). Oh, let him do it, let him do it, Mr. Francis.

Mr. KIESEL. The sober second thought is asserting itself in Utah, and gentlemen dare not—on the other side they dare not submit it to the vote of the people. I challenge them—they dare not do it. They know they would get beaten. The sentiment in Utah I have asserted is undergoing a change. It was never discussed from the stump in Ogden, and gentlemen here in Salt Lake admit the same thing, so far as Salt Lake City is concerned. In the centers of population that was simply not taken any notice of. Now, we desire to have it submitted as a separate article, and I am certainly in favor of having it thus submitted. As one of the committee on elections and suffrage, why, I am not taking any exceptions because this matter is not referred back to our committee again. I think our committee now, after all the discussion that has been had here, should not act in this matter. I am in favor of leaving it to the president to appoint a committee of five. Consequently, I am endorsing Mr. Varian's proposition, and will so vote.

Mr. JOLLEY. May I ask the gentleman a question? I understood you to say that Relief Societies of a certain denomination in Utah were the ones that agitated this woman's suffrage, and ask the question if you have attended any of those meetings, or have you any statistics in your pockets to show to this Convention that that is the case?

Mr. KIESEL. No; I have not, but then that is admitted generally, and I do not suppose the ladies themselves will deny that, because most of the ladies that appeared on this floor here, I believe, belonged to that very estimable body of ladies, who have been doing a great deal of good in a charitable way and I am afraid who are now getting into deep water of going into politics.

Mr. JOLLEY. That is your own suspicion.

Mr. KIESEL. That is all, of course. The President here resumed the chair.

Mr. ALLEN. Mr. President, I now move the previous question, except that Mr. Varian may have the opportunity to close this debate.

Mr. THOMPSON. I second the motion.

Mr. SQUIRES. Mr. President, I arise to a question of personal privilege. I sent a note up to the president some time ago, asking to be recognized in view of the fact that Mr. Cannon of Salt Lake criticised some remarks of mine in the Convention. I trust the gentlemen will listen patiently. I won't detain them long. I did say in a few remarks that I made when the question first came up for consideration that I had canvassed this county pretty thoroughly, and that in every precinct where I spoke I favored the question of suffrage for women. I have not in any manner changed my ground. I still believe in equal suffrage for woman. Now, I would like to ask the gentleman from Salt Lake a question. How many speeches did he make in this county during the campaign?

Mr. CANNON. I do not know; I made

quite a number; I did not keep track of them. I could tell by going back and looking over our bills, perhaps.

Mr. SQUIRES. Is that your answer.

Mr. CANNON. Yes, sir. May I be permitted to ask the gentleman a question? I would like to ask Mr. Squires whether or not you did not say that had you not advocated woman suffrage you believed that other men would have been elected instead of those who were?

Mr. SQUIRES. I did that, sir.

Mr. CANNON. That is all.

Mr. SQUIRES. And I still believe that that thing might have happened in this county, but that is not the question at issue, Mr. President. The question that Mr. Cannon was raising was whether or not I knew the sentiment of this county and the district which I represented. I believed, sir, when I came here, that I did. I believed it as other gentlemen upon this floor now believe that they represent, as one gentleman said here, every man, woman, and child in his county. I believed that. I take occasion to say, sir, that since the first day that the debate opened upon this subject upon the floor of this house, I had not met until last evening a single man of all the men that I have met who favored the putting of this question of woman suffrage into the Constitution, except as a separate article.

Mr. RICHARDS. Mr. President, I arise to a point of order. The gentleman is not speaking to a personal privilege now, and the motion for the previous question is in order. He only got the floor for that purpose.

The PRESIDENT. I think the point of order is well taken.

Mr. SQUIRES. Very well, Mr. President, if the gentleman from Salt Lake desires to shut me off at this point I will cease. It is something that I can reciprocate later on, and the gentleman from Salt Lake will remember it.

The PRESIDENT. Shall the main question be now put?

Mr. WHITNEY. Mr. President, I have endeavored several times to catch your eye. If I had known it required a note sent up to the stand I should have begun my correspondence last night.

Mr. SQUIRES. Previous question.

Mr. ELDREDGE. Ayes and nays.

Mr. RICHARDS. I arise to a point of order, and while on my feet I desire to say as a matter of personal privilege—

Mr. SQUIRES. I call the gentleman's attention to the fact that he is out of order.

Mr. RICHARDS.—that when any gentleman on this floor arises to a point of order, he should not thereby put himself in a position, where he can be justly censured or accused of trying to choke any man off.

Mr. SQUIRES. I arise to a point of order.

Mr. RICHARDS. I have a right to state my position.

Mr. SQUIRES. The gentleman from Salt Lake is clearly out of order.

Mr. RICHARDS. Here is a motion for the previous question and I simply asked for that question. I simply say that it is unjust to say that—

Mr. SQUIRES. It is not debatable.

The PRESIDENT. Shall the main question be now put?

Mr. ELDREDGE. Ayes and nays.

Mr. ROBERTS. What is the question?

The PRESIDENT. The previous question.

Mr. CANNON. Mr. President, Mr. Varian reserved the right to close the debate.

The PRESIDENT. He closes after this question is taken.

The roll was called on the motion for the previous question and showed the following result:

AYES—51.

Allen	Larsen, L.
Anderson	Larsen, C. P.

Barnes

Boyer

Buys

Call

Cannon

Chidester

Christianson

Clark

Coray

Corfman

Creer

Cunningham

Driver

Engberg

Evans, Weber

Francis

Hammond

Hart

Halliday

Heybourne

Howard

Johnson

Jolley

Kimball, Salt Lake

Adams

Bowdle

Button

Crane

Cushing

Eichnor

Eldredge

Emery

Farr

Gibbs

Goodwin

Green

Haynes

Hill

Hyde

Ivins

James

Kiesel

Keith

Kimball, Weber

Brandley

Evans, Utah

Hughes

Kearns

Kerr

Lemmon

Lowe, Wm.

Low, Cache

Maeser

Miller

Morris

Murdock, Wasatch

Partridge

Peters

Peterson, Sanpete

Raleigh

Richards

Ricks

Roberts

Robertson

Robinson, Kane

Robison, Wayne

Snow

Symons

Thompson

Thoreson

Thurman

Williams.

NOES—39.

Lambert

Lund

Mackintosh

Maloney

Murdock, Beaver

Murdock, Summit

Page

Peterson, Grand

Preston

Ryan

Sharp

Shurtliff

Spencer

Squires

Stover

Strevell

Van Horne

Wells

Whitney.

ABSENT—15.

McFarland

Moritz

Nebeker

Pierce

Thatcher

Lewis

Thorne

Lowe, Peter

Warrum.

Maughan

The president declared Mr. Allen's motion lost.

Mr. Varian was excused from voting.

Mr. CANNON. Mr. President, inasmuch as this motion is clearly lost, to save time, I move we take a recess until half-past two o'clock.

Mr. EVANS (Weber). Mr. President, I move as an amendment to that, that we do not take a recess until we dispose of the motion before the house. There is plainly an attempt made here to delay this matter over to-day.

The motion of Cannon was agreed to, and the Convention then, at 12:43 p. m., took a recess until 2:30 o'clock p. m.

AFTERNOON SESSION.

The Convention re-assembled at 2:30 o'clock p. m., President Smith in the chair.

Mr. WHITNEY. Mr. President, in what few remarks I make I shall endeavor to respect the wise admonition of the chair and avoid all personal allusions. I certainly have no desire to use any acrimonious language. There has been too much bitterness indulged in already, and I shall say nothing to augment the stream of gall and wormwood. I would prefer to say to these troubled waves of thought and feeling, "Peace; be still." I disclaim all bitterness, so far as my remarks during these debates are concerned. What raillery or sarcasm I have used has been in the spirit of pleasantry. It was good-natured irony, and it was very far from my purpose to wound the feelings of anyone.

I am in favor of woman suffrage, and in favor of its being placed in the Constitution. That is where it properly belongs. It is a fundamental principle, and should have its place in the fundamental law of the State. It should not be left to be battle-doored and shuttle-cocked by succeeding legislatures. It should be a fixed star, not

a comet, in the firmament of the commonwealth.

I am opposed to the motion to recommit. It means delay, and is not necessary. The current agitation against woman suffrage is merely local. Whether it originated on the floor of this Convention or outside, does not matter. The women of Utah understand what suffrage means. They are not as ignorant of the subject as some suppose. They enjoyed the elective franchise for seventeen years, and voted again and again. Can it be conceived that this could be, and the question of woman suffrage not be discussed upon its merits in their homes? Moreover, there is a woman's paper published in this city, one of the first of its kind established west of the Missouri river. For many years it has permeated the homes of most of the women of Utah. It keeps them in touch with the leading women of the nation—with the thoughts, acts and aspirations of the champions of woman suffrage the world over.

My experience in politics is limited, but I took an active part in the campaign which resulted in the election of you gentlemen and myself to this Convention. Woman suffrage was mentioned repeatedly by speakers, and it was approved and applauded when mentioned. I know that men are sincere when they arise here and say they feel bound by the pledges embodied in the platforms upon which they were elected. It is wrong to question their integrity, to accuse them of cowardice and impute to them improper motives.

I call in question the motives of no man. That is not my style of argument. I am not in favor of the motion of Mr. Varian, but I would not impute to him an improper motive in making it. I do not say that the object in view is to work unnecessary delay, but I do say that in my opinion that would be the effect of it. It would mean that this Convention must wait here, bound.

hand and foot, until a few agitators had had time to get out among the people, work up an excitement in their particular locality, and bring such a pressure to bear upon wavering members that the anti-suffragists would gain a majority. It seems to me that these agitators are not half so anxious to hear from the people as they are to have the people hear from them.

The vote taken at a matinee at the Grand opera house in this city has been referred to as indicative of the popular feeling among the women of Utah upon this question. A majority of those present voted against woman suffrage. But what was the character of that majority? I have a little daughter ten years old who attended that matinee. She came home and told me she had voted against woman suffrage. I asked her why she had done so. She replied, naively, "Because a woman told me to." [Laughter.] That is how they obtained the majority. Some lady anti-suffragist acted as a steering committee for these little, innocent children, who did not know what they were doing. It reminded me of the school-boy who was asked: "Which is the largest city in the world?" "Chicago," he answered, and when asked for his authority, said a Chicago man told him so. [Laughter.]

But I realize that I have no right to argue. I am lacking in "the logical sense;" I am not a philosopher, but only a poet, I am told. I do not claim to be even a poet. I am only a lover of poetry, but one, I trust, who has a proper appreciation of the poetic faculty. Poets, gentlemen, are not mere rhymsters, not mere sentimentalists. A poet is one who sees into the heart of things, and is capable of leaping by intuition to a correct conclusion, while the philosopher, or mere orator, is groping in the mazes of his own fallacy. [Applause.]

Again, I am compared to a mountain peak, "the proudest of them all." I dis-

claim that honor also. I am only a humble foot-hill. But there are mountain peaks, towering intellects, in this Convention, to whom I defer and with whom I fraternize. For them I accept the comparison. And let me remind you that it is the mountain peaks that catch the first glimpses of the rising sun, while the valleys, where stand the anti-suffragists, are still shrouded in darkness. [Applause.]

They tell us that woman suffrage in the Constitution will imperil statehood. I do not believe it. But if it should, what of it? There are some things higher and dearer even than statehood. I would rather stand by my honor, by my principles, than to have statehood, if I must sacrifice my honor and my principles to obtain it. If Utah is to be immolated for standing by her principles, for enlarging the borders of liberty, let the sacrifice be made, let her be bound upon the altar, let the high priest of tyranny come forth and plunge the knife into her breast. She cannot perish in a nobler cause than that of freedom and equal rights. But the dagger that strikes at her heart shall be fashioned into a scepter for her hands, and the blood of her martyrdom shall rise as an offering to offended justice and become the seed of her future glory.

Mr. ELDREDGE. Mr. President, I favor the granting of the desire that has been expressed to recommit upon this ground: I was in favor yesterday of extending the time that was asked and fixing a day for which this question should be heard. It matters not how small a minority may be. The smaller the minority the more tenacious I would be in regard to granting to them the same rights and the same privileges that I would ask if I was in like circumstances. It would have not been unreasonable, in my judgment, to have granted the request yesterday, and I look exactly from that standpoint relative to the motion that is now before us, that it would not be unreasonable

or inconsistent to grant the motion. We will lose nothing by it. I presume that there is no gentleman upon this floor that is any more firmly fixed in his purpose than I am and I do not fear the arguments of my fellowmen or any thing that may be brought to bear, and I look upon all other gentlemen upon this floor just exactly in the same line, and as we had a vast amount of work before us that we could have given our attention to and used the time that we have spent parleying over this question profitably, and allowed a small courtesy to those who asked it, I felt that we could not consistently refuse it, and it is upon this ground, Mr. President and gentlemen on this floor, that I favored the proposition yesterday, and it is upon this ground that I favor it to-day; and there are gentlemen in this hall that have seen me upon other occasions when the minority asked privileges that I was ready to accord it to them, to a reasonable extent; and in fact I am willing to go in the interests of a minority a little beyond reason, that they may not say that there has been any influence brought to bear that curtailed their rights. One or two or three days would not jeopardize the question that we have under consideration, or a week would not jeopardize it, nor it would not delay us in our deliberations when we saw fit to go into committee of the whole and consider that which we have upon the calendar. I think that when we talk about consuming time and wasting time, that we can look to the opposite of the house. When we begin to talk in a belligerent sense upon this line that there has been more time used in discussing this question by the opposite side of the house than what is known as the majority side, politically speaking. Therefore, in all fairness to the minority upon this proposition, I am going to commit, and trusting what the future may be, I am not afraid of the people, of the public, of the sovereign power.

I am not afraid of the oratory or the argument of the gentlemen of this Convention. I have my ideas and my views upon this. I have my ideas upon men's honor and upon men's pledges, and upon the pledges of the parties, and I hold it constantly before me, and with all of this I am in favor of granting the motion and I shall vote for it.

Mr. GOODWIN. Mr. President, if I may be given a minute now it will save explaining my vote. I have heard some very extraordinary things since I have been in this house, one of which was to the effect that if the people of Utah decided to defeat the Constitution because the clause of woman's suffrage was in it, that freedom would be wronged and that she would still rise up and be avenged. It seems to me, Mr. President, that we are wandering away from the subject. If there is anything on earth that American people believe in, it is the rule of the majority. It seems to me it would be no hardship to the people of this State for each one to decide through his ballot whether he wanted woman's suffrage or not, and if we could get a full vote of the men, we would be sure to have a full vote of the women, because the men would vote as the women at home would want them to. We were told just now that a little girl was overpersuaded by a lady in the theater telling her that that was the right thing. Men have been persuaded that way for six thousand years, by having ladies tell them the wrong thing to do, perhaps. Now, there is a great deal of principle in this and a good deal of politics. I think I made my own position clear, and I shall say to all these gentlemen, that if this then was to make a fair proposition to the voters of this State, that they should or should not endorse woman's suffrage, the result, when it was figured up, would show exactly the sentiments of the people of the State of Utah. Suppose a majority of them did not want suffrage. Would that be the

rule of the majority to force this down their throats or compel them to vote against the Constitution in order to bear it?

Now, the question to-day is simply on a postponement until Monday morning, in order to give those who want to at least cast their first vote for a submission to the people the chance to put themselves on record that way. The majority can do what they please, because the old law of might can be called in, the same law that governed in the old age before intellects of men began much to expand and before their hearts had begun to expand at all. Is it an unreasonable request? I think not. All around us there are murmurs that the people are dissatisfied. Perhaps there is nothing in it. What harm will be done if we wait until Monday morning? It is now 3 o'clock. We have two more hours this week. Why not take up the regular order and let this thing go by until Monday morning? I will agree for one that I won't say a word if it comes to a vote on Monday morning. I think I can pledge a great number of gentlemen here, although there are a good many gentlemen—and especially on the other side of this question—on the majority side who have spent hours and hours in telling how much time was being wasted here, and my friend from Weber County this morning tried to cap the climax when a motion was made for a recess for an hour and half, he interposed an objection or an amendment that we should remain here to all eternity. They are the fellows that are continuing this thing. It is not us. We do not want anything that is not fair, and when the final vote comes we will be found all right. And let me tell you it won't make a bit of difference. If you commit this, you can vote us down Monday morning as easily as you can this afternoon. It will have a look as though we had a little consideration. It will quiet the swelling clamors of this city, and that is worth while, because, let me

tell you, Mr. President, this city controls the elections in this State. Parties are so nearly divided on the outside that this city is the place to look for a majority. I know what my friends on the other side think. They think by crowding this to an issue that a few republicans will fly the track and that they can go out into the country and say that the republican party did not keep its pledges. They will get fooled on that. That is all their anxiety is to-day, and I say the gentlemen that are trying to crowd this thing onto this Convention this afternoon give away the fact that in their hearts they have a fear to leave it to the people of this State, and that is not republican. That is not American.

Mr. EVANS (Weber). May I ask a question?

Mr. GOODWIN. With great pleasure. I will try to answer.

Mr. EVANS (Weber). Will you speak for your party and say that we can have a vote at any time on Monday next, if we will defer this matter?

Mr. GOODWIN. I will speak for this particular one of my party. That is all I have any authority to speak for, but I believe that nine out of ten will agree to the same thing this minute.

Mr. EVANS (Weber). If an agreement can be reached by which a vote can be taken—

Mr. GOODWIN. Without debate on Monday morning?

Mr. EVANS (Weber). Yes, I would be very much pleased to do that, but I would even be willing to give you until Monday evening if you would say that then you would bring this matter to a vote.

Mr. GOODWIN. Mr. President, I made that proposition to keep my friend from Weber making four or five speeches on Monday, but I want to state how I feel first and to say that I believe at the same time it will save a great deal of heartburning, it will save some recriminations and eloquence, if we agree to

grant this postponement to-day and come in Monday morning and make a final vote—give us all a chance to vote how we feel first and if you are strong enough (and I have no doubt you are) why press the thing? Then we will have the chance to say to our constituents—"we tried to do the right thing all the way through. We tried to keep our pledges in the platform. We tried to do our duty to the constituents. If you do not like that the next time you have a constitutional convention, get some one to serve you that will do it better." That is all we ask for. Private—this is an executive session—let me tell you, Mr. President, my honest opinion, that this motion if it is permitted to go until Monday morning will be voted down then and the other motion will be carried, and if it should be left to the people and they should adopt the Constitution and refuse to place woman's suffrage in it, it would not take more than one month to cure the evil, because I think the first Legislature of the State would give it to the ladies with an overwhelming majority. So we are really fighting windmills. This thing is coming. It is only about eight months off. Do not take any chances, let us have a square deal and go out or in as we can, like honorable men and like Americans, keeping in mind the fact that majorities in this country ought to rule. If we ever lose sight of that, if we ever have enough people to tell somebody else what to do, as the little girl was told in the opera house, and they do it, we will have trouble. Leave it to the whole people. Let them have their say upon it—at least on this proposition. Give us out of courtesy to the weaker party—out of courtesy to the public sentiment of this city, only two hours to-day, for you have only two hours more to work to-night of this week.

Mr. EVANS (Weber). Mr. Chairman, I asked the gentleman a question, and he simply has given me the answer, that so far as he is concerned, he is will-

ing to bring this matter to a vote on Monday morning. Of course, I do not take that as being spoken—

Mr. GOODWIN. Mr. President, I had no authority to speak for any gentleman here except myself.

Mr. EVANS (Weber). Mr. President, I take that as not being authoritative for the party which the gentleman represents. What I meant was submitting the proposition on Monday morning, was to submit the whole proposition, that this question might be voted upon at that time, and as the gentleman does not speak for his party, but only for himself, I shall address myself, Mr. President, a few moments to this house. And I say now, that so far as I am individually concerned, with me this question, which is now before the house, is a question or contest of endurance. I purpose to yield no further. I purpose to stand now upon the very platform upon which I was elected, and I ask no indulgence from any gentleman, neither do I expect him to ask any from me. I say now, that so far as I am concerned, there is no gentleman in this house who can say that I have voted to cut off debate; or that I have ever done an act which would stifle free speech. Neither can any gentleman say that I have impugned the motives of any man, whether he be against this proposition or not. I honor the judgment and honest opinion of all mankind, but this matter has reached this point where we must act. If we cannot act this afternoon, the debate will be continued until we do act, if men who are friends of equal suffrage will stand by me upon this proposition.

Mr. ELDREDGE. May I ask the gentleman one question?

Mr. EVANS (Weber). You may.

Mr. ELDREDGE. Did I understand the gentleman to say that he had not voted to cut off debate?

Mr. EVANS (Weber). I never have except—

Mr. ELDREDGE. May I then ask

you how you voted on the previous question, the last time it was called in this house?

Mr. EVANS (Weber). I believe the gentleman is right. On that question I did, because I thought everybody was through except Mr. Varian.

Mr. ELDREDGE. And that is the reason why I ask. I see you recorded as voting that way.

Mr. EVANS (Weber). That is right, Mr. Eldredge. I am speaking on general propositions, and I did vote—I say it frankly, I did vote for the previous question upon that occasion because I believed that everybody was through except possibly myself, and I voted to cut off my own debate, rather than that of any other gentleman. So far as I am individually concerned, I desire to say that there has been upon the part of the opposition some imputation cast upon those delegates who favor equal suffrage. It has been done very cunningly, so that it could be scarcely discovered that an imputation was being cast upon those who stood firmly in the interests of equal suffrage for men and women. I desire now to refer a moment, not personally, or specially, to the argument of the gentleman from Davis—the hero of the hour, he toward whom all eyes have been turned. Two or three times he has made some sort of allusion to somebody, I know not whom it might be. He has spoken in one instance of scurvy politicians and in another instance something respecting peanut politicians. I do not know, gentlemen, whether he means you of the republican party or not. I take it that he does not, because he calls you patriots. So that the reference must be made to some upon this side of the house. Why the necessity of making of remarks of this kind? What is it the gentleman wishes? Does he desire to elevate himself here before the people of this Territory as a perfect Lucrece of virtue? Does he desire to spread the impression that he strides the earth like

a Colossus and that all ordinary beings peep between his huge legs to find themselves dishonorable graves? Does he mean to insinuate that men who favor striking the last shackle of political slavery from the limbs of women are scurvy and peanut politicians? I have stood this thing long enough. I care not whether it be the gentleman from Davis County or any other, it makes no difference to me. I stand upon this question upon principle and I am ready to vote upon it. The gentleman says, “wait a little while. Let us hear from the people.” I referred to that upon yesterday. To-day I saw the gentleman get into a barouche, drawn by a pair of white horses, with some ladies, and I presume he went to the theater for the purpose of edifying them. I noticed upon his table, which he had the courtesy to show me, a set of resolutions which he had prepared presumably for that meeting.

Mr. ROBERTS. Excuse me, I did not prepare them.

Mr. EVANS (Weber). I asked you if they were yours.

Mr. ROBERTS. I did not tell you I prepared them.

Mr. EVANS (Weber). Anyway the resolutions were prepared in advance, and I doubt not those resolutions which were lying here upon this table will be adopted verbatim, and what does it all mean? Are we not here as delegates under oath for the purpose of casting our votes honestly and conscientiously upon this question? Must we refer from this dignified body of men a question which we have had under consideration so long to the people in this uncertain way? What would we know—what can we know if the secretary's desk be lumbered up with petitions, remonstrances, and memorials for woman's suffrage? How do we know—are we to appoint a canvassing board for the purpose of determining the question as to whether they are honestly gotten up or not? Are we to determine

the question as to whether the ballot boxes have been stuffed? Are we to determine the question as to whether the particular individuals who signed these petitions and memorials did it from their honest judgment? Are we to go in this particular question in this unauthenticated manner for the purpose of determining what our action shall be here? The only way by which people can determine the wishes of their constituents is in the regular manner, in the regular order, in our primaries, and in our conventions, and the sentiments of the people as we found them at that time, and then act upon it. Gentlemen, you can see that this thing will lead to interminable trouble and turmoil, heartburnings, and charges, criminations, and recriminations. Upon the one hand, as I stated yesterday, there will be positive assertions that the people of Utah favor woman's suffrage, and upon the other hand, there will be a denial of it. After all, we are here as men upon oath. Shall we not act upon our best judgment? If any man desires to be absolved from his political pledges let him vote upon his conscience and disregard his platform, but to postpone action for the purpose of securing the sentiment of the people in this unauthenticated manner is a thing which is unheard of in the annals of history in dignified legislative bodies.

But gentlemen say it is fair and proper that this matter should be submitted to the people separately for the purpose of securing an expression of opinion. To what people? Those who are already enfranchised? A convention is in a limited sense a revolutionary body congregated together for the purpose of forming a new government, by which the people of the particular locality might act. Suppose we submit the proposition separately to the people. Who votes upon the proposition as to whether women shall be enfranchised? Is it not the men? Women have no voice, but they must submit to the

majority of the opposite sex. Is this right? It seems to me that the whole question recurs to the proposition, is it right that women should vote? If it be right, why not insert it in the Constitution? If it be wrong, why not vote against the insertion of it in the Constitution and likewise vote against the submission of it to the people?

Now, I want just for a moment to refer to a remark which my colleague from Weber County (Mr. Kiesel) made. He said that the reason why he was not here on yesterday was because he was sick. That was true. I know that he was ill. I went home with him on the evening that the meeting was held at Ogden. He was feeling ill. He did not attend the meeting. He spoke truthfully respecting that matter. He did not go home for the purpose of dodging any issue. But just why he should have made the remark that another gentleman from Weber County went home for the purpose of receiving garlands and flowers is something that I am unable to understand. He knows me as well as I know him. He knows that it was not my expectation to go home for that purpose. He knows, and every man knows, that I did not favor the holding of meetings for the purpose of an expression of opinion upon this question, because I knew the uncertainty of it, and the only advice I gave that meeting was to adjourn and go home and permit the delegates of this Convention to act upon their conscience and upon their honor.

Mr. KIESEL. I want to ask the gentleman a question. I am glad that Mr. Evans is setting himself right here, but he knew that I could not be at the meeting and as his colleague here he also knew that I was lampooned by a shyster lawyer up there in Ogden and he did not have the manhood to stand up and remonstrate.

Mr. EVANS (Weber). Mr. Kiesel need not say that. He need not say that at all. It is not fair and it is not

called for. I was not called upon to stand by any one, neither did I do it.

Mr. KIESEL. I would have stood by you.

The PRESIDENT. I think this is wholly out of character in the Convention here. The proposition before us is the question of recommitting.

Mr. EVANS (Weber). Now, there is one other thing which I desire to refer to and I do that for the benefit of gentlemen from Weber County. It was stated by my colleague (Mr. Driver) the other day upon the floor of the house in something of an excited manner that he understood that only two parties were standing in favor of suffrage. At the time that statement was made it was appalling to me. I did not think it could possibly be correct, but I find after all that he did not miss the mark very far. Aside from another venerable gentleman who has spoken upon this floor, I believe he and I are the only ones who have given any evidence in this Convention of being in favor of the right of women to vote, and to those gentlemen who have departed from their party pledges, and who believe that they have heard the voices of their constituents, I desire to say, before I take my seat, that I hold in my hand a letter just received from Weber County, in which I am informed that eighteen hundred people up to this date in Weber County, demand that a clause giving equal suffrage to women should be inserted in the Constitution. Only a little more than one hundred less than those who voted for either one of us who now stand upon this floor representing that county—about 1940 was the average vote for each delegate, and they are receiving these signatures daily, and announce that in a short time the number will be very largely augmented. But I care nothing for this even. I only call their attention to it; but I want to call their attention to something else and that is the party platform upon which they and I were

elected. I want to read it again. I want to remind them of it, "the democrats of Utah are unequivocally in favor of woman suffrage and the political rights of women equal with men, including eligibility to office, and we demand that such guarantees shall be placed in the Constitution as will secure to the women of Utah these inestimable rights:" and in connection with reminding my colleagues from Weber County of this party pledge which we made and which we advocated, I say, many of us, upon the stump, and even some of those gentlemen to-day who stand here asking that this matter be inserted in a separate clause stood side by side with me upon the stump in the political arena and advocated the same rights which I advocate here, they know it and cannot deny it. If they desire to break their party pledges, if they desire to dishonor themselves, it is all right with me. They do it simply because they believe that in the locality from whence I come the sentiment of the people is against woman suffrage.

Mr. KIESEL. You did not see me there.

Mr. EVANS (Weber). I am not referring to Mr. Kiesel. I will say of Mr. Kiesel, that he is consistent in this matter. He told me after his nomination that he was against woman's suffrage. I will never misrepresent any man knowingly, and I believe that he was against it honestly and conscientiously, and he has never heard a word of censure from me respecting that matter. But I want to call attention now in connection with this matter to the able champion against woman's suffrage, and I do it now as though I were talking to democrats. You remember, gentlemen, that in 1892, I believe it was, a political platform was adopted by the democratic national party at Chicago, in which there was a declaration in favor of tariff reform. An election was held, a democratic administration was ushered in. The lower house

of Congress passed an act reforming, as we call it, the tariff, the senate McKinleyized the Wilson bill. The chief executive of the nation wrote a letter to a distinguished gentleman in which, at that time; he branded the act as one of perfidy and dishonor; at that time the able champion against woman's suffrage, agreed with the chief executive of the nation, and so did every democrat throughout the land, among the people, and votes of censure and resolutions denouncing a few democratic senators who stood with the republicans in McKinleyizing that measure were passed. What difference is there between that question and the one we have here now? Is not it an act of perfidy and dishonor, I say, to make pledges, and go before the people and tell them we stand upon those pledges, and then come upon the floor of this house and seek to manufacture sentiment against it—and not only against that, but to manufacture sentiment which will still keep political rivets and chains upon the limbs of women—a sentiment keeping in political slavery the female citizens? Gentlemen, it is the sentiment of the age to throw off the traditions of the past, to give as full and complete measure of liberty to one citizen as to another. Every taxpayer, whether it be man or woman, is entitled to a voice in the government of this country, especially when it comes to the question of taxing her property or incurring public indebtedness, and yet the oratory which has been displayed upon this floor seems to have disturbed the minds of people. A bare fear pervades the locality where we now are. We seem to have forgotten to accord to mankind that which is right and honorable for a mere sentiment. That if it be accorded, forsooth statehood will not be given to Utah. I will not discuss the merits of this question at all, but I want to say this, that I am against the substitute, and against it for the reasons which I have given. I

am against it because it is an insult to the committee on elections and suffrage. It is equivalent to saying to them, "You are incapable of reporting to this Convention an article suitable and acceptable to us. We desire the president of the Convention to appoint another and separate committee for the very purpose of doing that which will violate every pledge which we have made."

I have been informed that my constituents are very much displeased with my course privately as well as publicly. I say to them now that so far as I am concerned if they do not want me here they can send somebody else, but when they sent me upon promises which I made, and ask me not only to violate my pledges and promises, but my conscience, I say to them that I will not obey their commands, and it makes no difference to me what they may think about it. Whether a scurvy or peanut politician, I care not, I shall do that which I believe to be right. I shall not pursue a course here which is irregular to secure the sentiments of people hither and thither and everywhere at irregular and improper elections and methods of expressing opinions. Here upon the streets of your city the bootblacks have petitions of the form which I read yesterday, hailing everyone passing by, asking them to sign that petition for separate submission. What kind of an expression of opinion is that? How are we to determine how many times each individual who is against woman's suffrage is voting in that manner or expressing his opinion? Why, gentlemen, you know when it comes to receiving an expression of opinion of the people, guard it as closely as you may with returning boards, sworn judges of election, with penal laws, punishing violations of the elective franchise—with all that, many of you upon the other side of the house believe that there was very much corruption in the returns of members of the Utah Commission for delegates who are to-day sitting upon this

floor and yet to here pause and wait for an unauthentic expression of opinion to come, how can we guard it when we receive it? What guaranty will there be that it is authentic? Who can say that the returns were not stuffed? Who can say that it is an honest expression of the people? Gentlemen, that is utter folly—utter folly. Permit it to go on if you will. I am informed that a caucus of the republican party was held this noon day and that woman's suffrage lost some three or six of its friends. Whether that be true or not, I do not know and will not charge, but permit this matter to go on if you will from day to day and the first thing you know you will have the people of this Territory all by the ears. I warn you now to act upon your consciences if you do not believe in your pledges. Do that which you believe to be right and honorable, but do not delay this cause for the purpose of receiving information from the people in the manner which is desired by some members of this Convention.

Speaking to the question of the gentleman from Summit just a moment—he believes in according the utmost courtesy to the minority, however small. That may be true. It seems that he desires it now. I remember, however, in the beginning of this Convention, that his sentiments were not just as they are at this time. [Laughter.] And I am utterly astonished at the other gentleman from Salt Lake who now advocates a submission of this question to the people after the speech which he made; and the criticisms of Mr. Cannon upon him were deserving and right. Let that speech be transcribed and it will show that he was in favor of inserting this clause in the Constitution, and no other construction can be placed upon it. Gentlemen, search your own hearts. Look to yourselves and you will find many of you exactly in the same situation.

Mr. LOW (Cache). May I ask the gentleman from Weber a question?

Mr. EVANS (Weber). Certainly.

Mr. LOW (Cache). As a prelude to the sentiments expressed, I desire to ask if it was not your statement that the gentleman from Weber (Mr. Kiesel) volunteered information to you that he was opposed to the woman's suffrage question, notwithstanding it was in the democratic platform, is that correct?

Mr. EVANS (Weber.) Mr. Kiesel did voluntarily tell me that, yes.

Mr. LOW (Cache). Is it your opinion then, Mr. Evans, that he would have given expression to his sentiments, had he not known that it was an issue in the minds of the people, as some gentlemen upon this floor would seem to deny?

Mr. EVANS (Weber). Well, so far as that is concerned, I do not desire to enter into the private conversation between Mr. Kiesel and myself. That would not be proper, but suffice it to say that upon the stump in Weber County in almost every precinct and in the Grand opera house, I advocated equal suffrage for women and every one of these gentlemen knows that I did.

Mr. THURMAN. Did Mr. Kiesel speak against it?

Mr. EVANS (Weber). Not a man spoke against it—not a single one. And what astonishes me more than anything (and I refer to it again), are those friends and colleagues of mine who stood by my side advocating it just as I did, and who are here to-day covertly seeking to defeat it.

Mr. DRIVER. May I ask you a question?

Mr. EVANS (Weber). You may.

Mr. DRIVER. Mr. Kiesel told you and he also told me as you stated, but he took special pains I believe not to go out upon the stump and deliver lectures that he was opposed to it. If he had he would not have been here to-day.

Mr. EVANS (Weber). To do justice to Mr. Kiesel, I will say that he told me that he was against it after he was elected. He never did before.

Mr. KIESEL. You said after I was nominated.

Mr. EVANS (Weber). If I said after you were nominated I was mistaken.

Mr. KIESEL. And I told you before I was nominated.

Mr. EVANS (Weber). I believe he was always opposed to it before he was elected, but he never told me until after he was elected. Now, gentlemen, as I stated in the very beginning, with me this is a question of endurance. I purpose to stay here until this matter be disposed of.

Mr. LEWIS. Mr. President, I do not know whether the gentleman who has just taken his seat—

Mr. CHIDESTER. Mr. President, I arise to a point of order. He has spoken once.

Mr. LEWIS. No, sir; I have not spoken on this question.

The PRESIDENT. He has not spoken on this question.

Mr. LEWIS. I had not intended speaking again, and should not again arise to speak, were it not for some of the utterances of the gentleman who has just taken his seat. When he refers to his colleagues upon the stump in the last campaign, whether he has reference to me or not, I do not know, but I think that I was not present at a single meeting during the campaign, with the gentleman from Weber, and I challenge him—

Mr. EVANS (Weber). I did not mention anybody's name, did I?

Mr. LEWIS. No, sir; I am just merely defending myself. You referred to colleagues from Weber.

Mr. EVANS (Weber). I will absolve you, if that is what you want to reply to. You were not present with me, but other gentlemen very near you were.

Mr. LEWIS. And I will further state since the statement was made in general of the colleagues from Weber County—

Mr. THORESON. Mr. President, I do not think the gentleman is talking to

the question before the house. I make the point of order.

The PRESIDENT. The question before the house is the recommitment of the proposition to a special committee.

Mr. LEWIS. Mr. President, I propose to come to the question, if not directly, indirectly. I want to place myself properly before this Convention after the attitude that I have assumed. Talk about criminations and recriminations, there have also been insinuations, and I do not propose to stand under a single insinuation, if I have the privilege of placing myself properly before this Convention. I defy any gentleman to refer to a single instance, either in private or public, where I stated that my personal convictions were favorable to female suffrage. I have not so stated my convictions. When the democratic party to which I belonged placed this principle in their platform, I accepted it. I came here, gentlemen of the Convention, prepared to vote for that principle being firmly fixed in our Constitution, and my mind did not fluctuate nor change upon the proposition until I heard that some of my constituents in Weber County had changed their sentiments and that if they were so pronounced in favor of female suffrage being placed in the Constitution proper, they now favored the presentation of this subject to the people in a separate article. Hearing this statement, I concluded that I was not above the people. I did not come here to this Convention to represent my sentiments and my views alone. I came here to represent the sentiments and views of my constituents in Weber County, or more properly speaking, in Ogden City. If the people of Ogden, even after they had voted in November in favor of this proposition—if they had occasion to change their sentiments and their opinions in regard to this matter for fear that something would come up by which the Constitution would be voted down, I concluded and took the position yesterday, and take the posi-

tion to-day, that it is right to wait to find out and to know what the opinion of the people of Weber County is. As I stated, I am not above my party. I do not consider my opinions superior to the opinions of the people whom I represent, and if I can know their sentiments and their thoughts to-day, I stand here prepared to vote that thought and that sentiment, no matter what my convictions are. I have stood upon this floor and stood the opprobrium of being charged with cowardice, but I stood it simply because I found that I was in the same position with the great R. E. Lee of Virginia, when the question of secession came up in 1861, and the question was presented to him; said he, "Gentlemen, if you move forward in this line and undertake to withdraw this state from the Union and to establish the doctrine of secession, you are ruined. I am opposed to it." Still, having been trained and indoctrinated in the idea of state rights and the power of the state, he said, "Notwithstanding these are my convictions, I will prove true to my duty and I will stand by my state."

There is an instance where a man, contrary to his convictions, contrary to his intuitions, contrary to every conception of the result of the step that his people were taking, cast them all aside to do his duty. I stand here upon the same platform to-day, and if the people of Utah Territory—if my constituency want female suffrage established in the Constitution, I am prepared to-day to vote for it, and let the consequences be what they may; but if my constituency prefer to have it presented to the people in a separate article and not endanger the Constitution, I stand here prepared to vote for that to-day, and I challenge any man or set of men to question my honor upon this question or upon this proposition.

Mr. EVANS (Weber). I desire to ask Mr. Lewis a question. Do you contend that your constituents are those who

live at Ogden, or do you regard yourself here as a representative of all the people of Utah?

Mr. LEWIS. I consider that I am the direct representative of the people of Ogden City, and I measure the sentiment of the people of Utah Territory by the sentiment of the people whom I directly represent. I let other men from other counties represent their constituency and I represent my own. I am here to represent the people who elected me. I am to represent their thought, and if that thought is not the major thought of this Convention, it will go down. If the thought of my constituency represented by me is the major thought of this Convention, it will triumph; but I want you to distinctly understand that I am not putting my opinions and my ideas above my people. When I am called upon to vote my convictions I stand firm and true to my convictions, but when I stand to represent the people, so long as God gives me breath and power I purpose to stand by them and vote their ideas, their thoughts, and their sentiments. This is what I understand by representative democracy. I did not intend, gentlemen, to make any further remarks upon this question, I merely did it in defense of insinuations which were cast out in regard to the representatives from Weber County, and I thank you for your attention in listening to me.

Mr. HOWARD. Mr. President, the question before the house is on submitting this as a separate proposition—

Mr. SQUIRES. Mr. President, the gentleman has spoken once on this question. I tried to speak the second time this morning and was shut off. I do not think he should have the privilege that was not accorded to me.

Mr. HOWARD. I am through now. I just want to ask a question that I have written here—

Mr. SQUIRES. I submit the gentle-

man is just as much out of order as I was this morning.

Mr. HOWARD. I rise to a question of personal privilege.

The PRESIDENT. You may state it.

Mr. HOWARD. Suppose two prominent lawyers were in court arguing an important case before a jury and one of them, afraid—

The PRESIDENT. To whom are you addressing that question?

Mr. SQUIRES. Addressing it to the Convention.

Mr. HOWARD. Mr. President, excuse me—

The PRESIDENT. The gentleman is out of order.

Mr. HOWARD. I was addressing it to Mr. Squires.

Mr. SQUIRES. The gentleman is out of order.

Mr. HOWARD. Mr. Squires made the remark here this morning that I wished to ask him the question on.

The PRESIDENT. All right, ask Mr. Squires the question.

Mr. HOWARD. I will ask him the question.

Mr. SQUIRES. I submit, Mr. President, the gentleman is not in order.

The PRESIDENT. Mr. Howard has the floor, Mr. Squires.

Mr. HOWARD. Suppose two prominent lawyers were in court arguing an important case before a jury and one of them, afraid he was going to lose his case, would leave the jury and go out upon the street and appeal—

Mr. IVINS. Mr. President, I do not wish to be captious about this matter, but I insist this is entirely out of order. Mr. Squires has not got the floor. I would like to see the rule applied to one man as well as to another.

The PRESIDENT. The gentleman will take his seat.

Mr. HOWARD. Now, I ask this question as a matter of personal privilege.

The PRESIDENT. The gentleman will take his seat.

Mr. KIMBALL (Salt Lake). Mr. President, I would like to make a few remarks before this subject is closed. I will state in connection with four other representatives on this floor, I represent about 1200 voters, and possibly 3000 constituents, and I have mingled among those people ever since I took my seat on this floor, and I have not heard so much as a single word yet in remonstrance against this proposition. I am opposed to recommitting this for the many reasons that have been explained on this floor. I consider that we have been very lenient indeed to the minority and have listened here several days to their discussions and allowed them to stir up a local opposition, for I maintain that it is only local. I have investigated carefully the sentiments of the gentlemen on this floor from the outside counties and I have failed as yet to find any constituency outside of Ogden and Salt Lake that ever made any complaints as to the action of the majority of this Convention. Now, I am not going to insinuate on the people of Salt Lake, but I do say that I represent a large portion of them—of the quiet, peaceable, respectable citizens, and I have listened on this floor to gentlemen from the fourth precinct who represent a large constituency of the same class of people. I have listened to other gentlemen on this floor and I find that the only complaint or remonstrance at all against this proposition is from a local and central opposition. And as for Ogden, it seems to me that the honorable Mr. Evans has answered every opposition when he stated to us that something like 1800 voters favor the position that he has taken. And now I wonder that Park City and a few of the mining camps have not sent in their remonstrance or asked the honorable Mr. Roberts to intercede in stopping this proposition.

Mr. SQUIRES. They are on their way.

Mr. KIMBALL (Salt Lake). Well,

then, we are not going to wait for them, if I have a vote on this floor. [Applause.]

Mr. ROBERTS. Would the gentleman permit me a question?

Mr. KIMBALL (Salt Lake). Yes, sir.

Mr. ROBERTS. I did not catch your last remark. I would like to have you repeat what reference you made to me.

Mr. KIMBALL (Salt Lake). I suggested with all due respect that I wondered why they had not asked you to intercede in stopping this measure.

Mr. ROBERTS. I will just inform the gentleman that I have the protests of the ladies on that subject in my hand, just this moment come.

Mr. KIMBALL (Salt Lake). Well, we will hear from them possibly after a little. It looks to me as though it was undignified indeed for this Convention to wait for members on this floor to go out and stump in the various meetings and go out and ask the people to assist them in stopping and deferring this important subject. I have taken my position, and that is in favor of woman's suffrage, and I expect to stand by it. Gentlemen, I am ready to vote at this moment, if necessary to put this thing through, and I maintain, though I may be censured by the people of this Territory for haste, that we have been patient until patience has ceased to be a virtue.

Mr. STOVER. Mr. President, I wish to say the gentleman alluded to the mining camps not having sent in remonstrances. I wish to say that I represent a mining as well as an agricultural county (Tooele), and I wrote to them, asking them if they had any petitions to send in to send them to me in a day or two. I expect them to-morrow or perhaps Monday, and I know this, that my constituency—all of the mining districts, the western part—the eastern part of Tooele County is entirely opposed to female suffrage, especially to its being put into the Constitution. I believe they are nearly

unanimous. All that I have heard from have informed me to that effect, and if it is put into the Constitution, they will vote against it. They have expressed themselves so freely to me on this subject. I had not intended to say anything. I have had a sore throat for several days, but when a fair proposition is made like Mr. Varian's proposition, to wait until Monday only, whereby we will lose no time, having plenty of business before this Convention, I have been astonished at the manner in which this question is made paramount to the whole Constitution. It is made paramount. They have forgotten that there are other great questions for us to consider—education, irrigation, and everything else, but this has been thrust upon us by the majority, supposing that it would be nearly unanimous, and there were only a dozen opposed to it last week. They are beginning to open their eyes—the people are, and the people of this city and the great cities of Utah should be heard, and also the mining districts, and I tell the people that they will miss it, terribly, if they do not, because I want to see us have a Constitution that there is not a very great probability of its being defeated. There are several reasons why the people will vote against it if we place things in this Constitution that should not be there, and I claim that this is one. It should be submitted a separate matter, and if the gentlemen will only stop and think—do be honorable about this and let Mr. Varian's proposition pass. You lose no time, because on Monday I for one should say, the first question on Monday morning, that we shall take a vote.

Mr. HOWARD. Mr. President, I wish to now just read a few words here as a matter of argument. I will not put it as a question—if I have the privilege.

Mr. SQUIRES. I object.

The PRESIDENT. There is an objection.

Mr. HOWARD. I have spoken once on this question only.

The PRESIDENT. There is an objection, you having had the floor twice.

Mr. BUTTON. I would like to ask the question, Mr. President, is it the rule on this question that a man cannot speak but once?

The PRESIDENT. No, sir; but he cannot speak twice until the rest of the members have had their chance.

Mr. BUTTON. If there is not anybody else wanting to speak, can't he speak the second time? That is what I am after.

Mr. HART. Mr. President, rule 11 settles this matter, and I think it settles it in favor of Mr. Howard. (Reads).

Now, if there is any other gentleman that has not spoken that desires to, I think they should have precedence over Mr. Howard, but inasmuch as there is no other person, Mr. Howard should have the right to speak.

The PRESIDENT. If there is no other gentleman, Mr. Howard will speak.

Mr. HOWARD. I do not wish to occupy the time of the Convention very long. I will just read this now that I was going to say. Suppose two prominent lawyers were in court arguing an important case before a jury and one of them, afraid he was going to lose his case, would leave the jury and go out on the street and appeal to the people, what would you lawyers think of him?

Mr. GIBBS. Mr. President, I arise to a point of order.

Mr. HOWARD. What would you members of this Convention—

The PRESIDENT. Go right on, Mr. Howard.

Mr. GIBBS. I do not think Mr. Howard is speaking to the question at issue at all.

The PRESIDENT. You cannot determine, for he has not got through with it.

Mr. HOWARD. I am speaking to the question now of delaying this matter.

The PRESIDENT. Go right on, sir.

Mr. HOWARD. Commence at the commencement?

Mr. HALLIDAY. I move the gentleman be allowed to proceed.

Mr. HOWARD. All right. Suppose two prominent lawyers were in court [laughter] arguing a case before a jury, and one of them, afraid he was going to lose his case, would leave the jury and go out upon the street and appeal to the people, what would you lawyers think of him? What would you members of this Convention think of him? Answer it, yourselves, and yet is that not just the way the proposition of woman's suffrage now stands? Members of this Convention have been appealing to the excited feelings and prejudices that they themselves have made of a few of the people from the deliberate vote and study of the members of this Convention. I say shame on them. [Laughter.]

Mr. MORRIS. Mr. President, I object to delaying this matter for various reasons, or to referring it to the committee or the Legislature either on this ground. When we were elected as delegates to different conventions we were sent there as agents or representatives of the people to do that business for them. I attended a Convention in Provo when they placed that plank in the republican platform, and I do not remember of a single voice of objection to that plank. Since that I read the plank of the platform of the democratic party, which went two or three better than the republicans. Some have said here that that plank was placed in the platform at Provo to catch flies—for an object. I declare here I did not understand it so. I believed that they were sincere in their sentiments in placing that plank in the platform, and they declared there that they were in favor of giving suffrage to the women of Utah equal to the men. They were willing—that convention was willing, that party was willing, and we found the same sentiments in the democratic party

as well, that they were willing and not only willing, but as a party, as we have heard the plank read here just now—that they demanded as a democratic party that they were going to give suffrage to women.

Now, I will ask you gentlemen on this floor if we are going to defer it to the future and to the election and to the coming Legislature? How can we give it to the people? We claim to give it as a Convention and not leave it at the risk of the future to place it in the Constitution and spike it down, that it cannot be taken out again, and I cannot see how we can be consistent as a people, as intelligent men, as men that claim honor, to try and switch off from this matter at this late day. Hence, I am in favor of taking a vote upon this and decide the question and stop fooling as we have for several days, that we may go on with our business and get through before the year gets through.

Mr. L. LARSON. Mr. President and gentlemen, so far as the main question is concerned, I do not intend to switch on that. I expect to stand by this. I intend to vote for woman's suffrage. I intend to vote to have it put in the Constitution; but it appears that there is such opposition and things have taken such a shape at the present time that it is almost a wonder to me, and I am astonished at very many points that have been brought before this Convention. Now, I am willing to be generous. So far as I am concerned personally, all the talk and all that has been said and done does not change my mind on the main question, but being that there is such opposition and the gentlemen say that they expect to hear from their constituents and so on (I am not looking for any information from mine; I have not asked for any, I do not intend to ask for any), but I am willing to concede thus far to give them a little time if they want to have it, as the gentleman from Salt Lake said, he would be

ready. I hope they will all be ready Monday morning, then to go ahead to work like men.

Mr. THURMAN. May I ask the gentleman a question?

Mr. L. LARSON. Yes, sir.

Mr. THURMAN. Do you understand that in voting on this question, that we are about to vote on, or that we will, after Mr. Varian speaks, that you are voting for a submission of a separate proposition to the people and not for woman's suffrage in the Constitution?

Mr. VARIAN. Oh, no, no.

Mr. THURMAN. Don't you understand that is the fact?

Mr. L. LARSON. If the proposition they present does not suit me, I am under no obligation to vote for it.

Mr. THURMAN. Permit me to ask the question so that it may be distinctly understood, for I may be in the wrong myself. Don't you understand that the proposition here is to vote for this to be referred to a committee with instructions to bring in a proposition to submit to the people, and that the effect of this vote is to vote for submission to the people rather than to vote for woman's suffrage in the Constitution? Don't you understand that?

Mr. L. LARSON. I also understand that when the time comes that we have a right to vote it down. They ask for this permission, and I feel willing to grant it to them.

Mr. THURMAN. You understand the question, do you?

Mr. L. LARSON. Yes, sir; that is all I wish to say on the question. I am willing to concede them this.

Mr. PRESTON, Mr. President, as far as I have kept account I stand alone in this assembly as the only one that has not spoken to this question. [Laughter.] There may be others.

Mr. CALL. There is one more.

Mr. PRESTON. But I am opposed to this proposition that is before the house entirely. We have been chawing

over this question now for some ten days and we have been considering all the time the wishes and the feelings of what seems to be the minority on this question. And it seems to me that we have considered it long enough. I have been ready to vote for this proposition to be placed in the Constitution for the last several days and there has been nothing made, nothing accomplished, no argument brought forward to prove to me that it ought not to be in the Constitution. I have been in favor of it, it seems to me ever since I was born—for free suffrage to all mankind. I was born and reared in the south amongst slavery. I was opposed to that as soon as I was big enough to think and know what it was, and I was glad when it was done away with. I look upon this restraint and restriction upon women, not having the privilege to vote, in the same light, that it is their right to vote and to take part in the government of the country in which we reside—that it is their right given to them through the Constitution of our great country that all men were created free and equal and that men always embrace the women [laughter], and so I have held it from then until now that they have this right. That it is inherent within them. It is their's by right and that there is nothing made or accomplished by this delay here—and may I say fillibustering? I do not know scarcely what that means; I have heard of it in Congress and all that kind of thing. It seems to me that we are taking a little bit of a lesson in it now, and hence I am ready to vote upon this question now and here at this time, and I want the gentlemen to understand that I am in earnest about it. I am terribly in earnest on this question, and let us have it now.

Mr. ROBERTS. Mr. President, I ask unanimous consent to have read the resolutions adopted at a large mass meeting assembled in this city this afternoon. Adopted by a unanimous vote.

Mr. CHIDESTER. I object.

The PRESIDENT. I do not think it can come up properly.

Mr. ROBERTS. I ask for unanimous consent.

Mr. BARNES. I object.

Mr. EICHNOR. Mr. President, have I the floor?

The PRESIDENT. Yes, sir.

Mr. EICHNOR. Hand me those resolutions. I will make them part of my remarks.

Mr. RICHARDS. Before Mr. Roberts yields the floor, I would like to ask him a question, and that is if he is not mistaken about these resolutions having been unanimously adopted?

Mr. ROBERTS. No, sir; there were but three votes against them, and as I passed through the door a gentleman explained to me that a subsequent canvass of the matter proved that those who did vote against them mistook the question. That is why I say they were unanimous.

The PRESIDENT. Mr. Eichnor has the floor.

Mr. IVINS. I desire to ask the gentleman a question.

Mr. RICHARDS. I would desire to ask the gentleman—

Mr. ROBERTS. I speak from information, as I was not there when the resolution was adopted.

Mr. RICHARDS. I know the gentleman would not intentionally misrepresent the matter and I therefore desire to call his attention to the fact that I am informed that there were scores of ladies present who voted against these resolutions, and a number of them are present in this building now.

Mr. IVINS. I want to ask the gentleman a question. He says that a subsequent canvass shows that these few opposing votes did not understand the question, and that they reversed their votes. I would like to know if any canvass was made to determine whether all the ladies that voted for this understood what they were voting for?

Mr. ROBERTS. I think the folly of the question will preclude any reason for answering it.

The PRESIDENT. Mr. Eichnor has the floor.

Mr. EICHNOR. Mr. President and gentlemen of the Convention, this is a matter that comes very close home. Now, I ask in all fairness and as a personal favor, irrespective of party or any other condition, to have this read without being compelled to inflict a speech on you. Mr. Chidester, you are chairman of the committee, will you object to it?

Mr. CHIDESTER. Yes, sir; I do.

Mr. THURMAN. Read it yourself.

Mr. IVINS. I suggest the gentleman has a right to ask the clerk to read this as a part of his remarks.

Mr. EICHNOR. I ask the clerk to have this read.

The PRESIDENT. The secretary will read for the benefit of the gentleman.

Mr. EICHNOR. As a part of my remarks, and I shall say nothing further.

The secretary then read the following:

The women of Salt Lake City and county, in mass meeting assembled, hereby adopt the following resolutions:

Whereas, a Convention is being held in this city for the purpose of framing a Constitution for the proposed State of Utah; and

Whereas, The question is being considered by said Convention of incorporating in said Constitution a provision for woman suffrage; and

Whereas, No opportunity has been afforded the women of this Territory to manifest their opinion upon the matter; and

Whereas, By the adoption of a plank in favor of woman suffrage in the platforms of both political parties, no opportunity was afforded to the citizens of this Territory to indicate their approval or disapproval of the proposition; and

Whereas, It is conceded alike by the advocates and the opponents of woman suffrage that in all intellectual attributes and attainments the women are entitled to vote, and if this is true, then they possess the necessary intelligence and attainments to enable them to determine for themselves whether they desire this privilege, and they should be

given the opportunity to decide this question for themselves; and

Whereas, From the published statements of a majority of the delegates of the Convention, it appears that they are supporting the proposition of equal suffrage, not from personal preference or conviction that it is right, but because they feel obliged to do so from the fact that they have been elected upon platforms favoring woman suffrage; and

Whereas, It would be better to remain disfranchised than to have the privilege extended to us through compulsion; and

Whereas, it has been repeatedly stated upon the floor of the Convention and in the columns of the public press, and has been reiterated on every hand, that if a provision in favor of woman's suffrage is inserted in the Constitution it will prevent the adoption of the Constitution by the people or by the President of the United States; and

Whereas, We do not desire to see the possibilities of early statehood jeopardized by the efforts to extend to us the privilege of suffrage, when the same end can be obtained by other means; and

Whereas, A matter of such great importance, and one that affects the interests of all to such a great extent, and that imposes upon women duties and responsibilities of such a great and weighty nature, should not be adopted without a full, free and fair expression of all the people to be affected thereby; and

Whereas, If the measure is incorporated in the Constitution itself or submitted as a separate proposition at the time of the election for the adoption of the Constitution, women will not be legally qualified to vote upon the question; and

Whereas, The question of woman suffrage can only be voted upon by women after the adoption of the Constitution and the admission of Utah as a State, and only then under provision of the Utah Legislature; therefore be it

Resolved, That it is the sense of the women of this, the largest city in the Territory, in mass meeting assembled, that the question of woman suffrage should be left undetermined until provision can be made by the State Legislature for the submission of the question to a full, free and unprejudiced popular vote of the people of the new State, at which election provision shall be made for the women to vote upon the question, and that the first State Legislature be authorized and directed to call an election for such purpose, and that they be given the power to qualify the women to vote at such election; be it

Resolved, Further, that the Constitutional Convention be and they are hereby requested to substitute in lieu of the provisions that were adopted by said

Convention as a committee of the whole in favor of woman suffrage, the following:

Section 1. Every male citizen over the age of twenty-one years, possessing the following qualifications, shall be entitled to vote at all elections:

First. He shall be a citizen of the United States not less than three months before he offers to vote.

Second. He shall have resided in the State or Territory one year immediately preceding the election at which he offers to vote, and in the county, city, town, ward or precinct such time as may be prescribed by law; provided, that no person shall be denied the right to vote at any school district election nor hold any school district office on account of sex, nor shall any person be denied the right to vote on account of sex at any election hereafter to be held, as herein provided, for the purpose of determining whether women shall be entitled to vote.

Section 2. The General Assembly shall, at the first session thereof, and may at subsequent sessions, enact laws to extend the right of suffrage to women of rightful age and otherwise qualified, according to the provisions of this article. No such enactment shall be of effect until submitted to the vote of the qualified electors at a special election held for such purpose, at which election women of the age of twenty-one years and over, and otherwise qualified according to the provisions of this article, shall be entitled to vote upon this question, nor shall such enactment be of effect unless the same be approved by a majority of those voting thereon.

Mr. EVANS (Weber). I want to ask Mr. Eichnor a question. Is it not true that this set of resolutions were the ones which were prepared prior to the holding of that meeting and which were lying here on the table this morning?

Mr. EICHNOR. I know nothing about it.

Mr. EVANS (Weber). I would like to ask Mr. Roberts that question.

Mr. EICHNOR. I know nothing about it.

Mr. ROBERTS. Mr. President, I arise to a question of personal privilege.

Mr. EICHNOR. Excuse me, I had not finished my remarks yet.

Mr. RICHARDS. I desire to ask Mr. Eichnor a question, and that is, if there

are no other signatures to that petition besides those which were read?

Mr. EICHNOR. I think the clerk read them all.

Mr. RICHARDS. I desire to know of Mr. Eichnor if he will answer, how many people that petition represents, if he knows?

Mr. EICHNOR. Mr. Richards, I do not know. Permit me to explain here I introduced it as my remarks. The ladies live in Salt Lake City and as a matter of courtesy that every gentleman should have on this floor, I introduced them as my remarks, and I am not ashamed of it, either.

Mr. RICHARDS. I think we all understood the reason why, but I think it is fair that it should be known to this Convention what the real facts are.

Mr. EICHNOR. I do not know.

Mr. RICHARDS. I desire to say to you that I am informed that there was a very large vote in opposition to these resolutions which were introduced here as having been adopted unanimously.

Mr. EICHNOR. I do not know anything about that.

Mr. ROBERTS. Mr. President.

The PRESIDENT. Mr. Eichnor has the floor.

Mr. LOW (Cache). I desire to ask the gentleman a question regarding the sentiment expressed in this article that has just been read. Are they expressive of your sentiments—that is, your sentiments?

Mr. EICHNOR. No; I differ with them in this respect, that I believe the better plan would be to put it in a separate article and place it in the schedule to be voted on.

Mr. LOW (Cache). Then, that is not to be considered as part of your speech?

Mr. EICHNOR. Considered as part of my speech. I have another part here.

The PRESIDENT. Mr. Eichnor will proceed with his argument.

Mr. EICHNOR. I ask the secretary

to read two petitions signed by ladies and gentlemen of Salt Lake City. I think there are 139 names on the list—simply to read the headings of the petitions.

Mr. CHIDESTER. Mr. President, I now arise to a point of order; that this is not the time to introduce resolutions or motions. We are in the middle of a debate and I object to any more being read or the headings of any other article. There is a time when these things can be introduced. Under the first item of business that should come before a Convention is the presentation of petitions and memorials. Now, I do not want to be—

The PRESIDENT. The gentleman is out of order. The gentleman presents them as his speech.

Mr. CHIDESTER. I maintain that that that is out of order. That that is equivalent to introducing here a petition and a memorial, and that it is out of order to do so.

The PRESIDENT. It seems to the chair that this is a peculiar manner of making a speech on a question involving the consideration of the motion of Mr. Varian, and it seems to be wholly irrelevant to this proposition.

Mr. EICHNOR. Can I ask for information?

The PRESIDENT. Yes, sir.

Mr. EICHNOR. If I have the floor and am recognized by the President, cannot I read from some manuscripts and state that the matters can be resubmitted?

Mr. CANNON. Mr. President, I arise to a point of order. My point of order is that the gentleman cannot read anything or have anything read which does not apply to the question before the house. You this morning declined to allow the gentleman to make remarks on the question—

Mr. EICHNOR. Mr. President, I arise to a point of order. The president is not to be castigated here by a member on the floor.

Mr. CANNON. I desire to finish my remark on the subject.

Mr. EICHNOR. Mr. President, I arise to a point of order. Let him state his point and not make a speech.

Mr. CANNON. I am stating my point of order, Mr. President, which is that it is no more relevant to read manuscript or read from manuscript and introduce matter foreign to the subject than it would be to speak extemporaneously.

The PRESIDENT. The chair rules the point of order well taken so far as that is concerned.

Mr. EICHNOR. I appeal from the decision of the chair.

Ayes and noes were called for.

The decision of the chair was sustained.

Mr. EICHNOR. I appeal to you as a matter of fairness, is not an appeal from the chair debatable after it is submitted to the house?

The PRESIDENT. The chair submitted it. Without there is a reconsideration of it called for—the chair will entertain a motion to reconsider this.

Mr. EICHNOR. Have I the floor?

The PRESIDENT. You have the floor and proceed in—

Mr. CANNON. Mr. President, I arise to a point of order. My point of order is that the ayes and noes have been demanded and that during that the gentleman cannot interrupt it at all.

The PRESIDENT. The ayes and noes have been called for on this question.

Mr. EICHNOR. Mr. President, I arise to a point of order.

The PRESIDENT. State your point of order.

Mr. EICHNOR. The chair had declared a decision. It is too late to call for the ayes and noes.

The PRESIDENT. The gentleman is correct. The gentleman will take his seat.

Mr. EICHNOR. Have I the floor?

The PRESIDENT. I recognize the

gentleman. He may proceed with his speech on this question.

Mr. EICHNOR. Now, Mr. President and gentlemen of the Convention, after a little skirmishing I think I will accomplish what I intended to accomplish. Mr. Varian's motion is to recommit this until next Monday, or to have it reported on by next Monday. At present I have heard from my constituency, of which we have heard so much—about constituency. Right here are petitions that aggregate possibly five or six hundred names that ask that the question of woman's suffrage should be submitted in a separate proposition, and still they come. Here is one hundred or two hundred more. Now, gentlemen of the Convention, we ask nothing that is unfair. We simply ask you to recommit this question to be reported next Monday, and I will say with Judge Goodwin, that I will be ready to vote on Monday. It is merely a matter of courtesy—

Mr. CANNON. May I ask the gentleman a question?

Mr. EICHNOR. Certainly.

Mr. CANNON. Will you introduce a resolution providing that it be the sense of this meeting—modifying Mr. Varian's motion that it be recommitted and that when it comes it shall be decided by vote without debate on Monday?

Mr. EICHNOR. I won't say without debate, but I am willing to say that I will vote on Monday, that I will try and press the matter to a vote on Monday.

Mr. CANNON. I understand Mr. Goodwin's proposition to be that it shall be without debate.

Mr. EICHNOR. He made his speech to-day, and I think that every republican on this floor will be ready to vote next Monday. I am not speaking for the party, but I am only guessing at it.

Mr. GOODWIN. I think that if that be submitted that the republicans present will agree to vote without debate.

The PRESIDENT. What is the statement of the gentleman?

Mr. GOODWIN. I say that if the matter can be submitted to the republicans on this floor, I think they will agree right now.

Mr. EICHNOR. I will.

Mr. GOODWIN. If this motion can prevail to-day, that they will proceed to a vote Monday morning without debate.

Mr. SPENCER. Mr. President, I move that we now adjourn until Monday morning at half-past ten o'clock.

Mr. VARIAN. Mr. President, I move to amend that that we adjourn for five minutes; that is debatable, and I want to say something on it. I did not put this motion in here this morning for the purpose of filibustering or consuming this day. I want it voted on to-night, because I want the proposition as embodied in this motion before the house on Monday, so that I can have an opportunity to vote my convictions on this question, and if you adjourn until Monday the effect of my motion is gone. There is nothing left for it to operate on. I want the vote if I can have it to-night. If you should determine it in the affirmative, then on Monday morning we will have this separate proposition side by side with this proposition, and those of us who do not like the proposition of the majority will be enabled to vote as we choose. If you adjourn we are just where we started this morning, and if we desire to accomplish the purpose sought for to-day we will have to introduce a new motion on Monday to recommit, in order that the object may be accomplished. I withdraw now, with leave of the second, the motion to adjourn for five minutes.

The PRESIDENT. The question before the house is on adjournment.

Mr. GOODWIN. I ask permission to file with the secretary some matter which is left with me and which is very precious, and which I do hope will be

read—if the secretary could read the matter by title and refer it I would be very glad.

The PRESIDENT. The question is on adjournment.

The motion to adjourn was rejected.

Mr. ROBERTS. Mr. President, I arise to a question of personal privilege. The statement that I made here that the vote at the mass meeting was unanimous has been questioned. I hold in my hand a statement from the reporter who was present and polled the vote, and he says, "I was at the mass meeting, I polled that vote, and there were five who stood up and voted against the resolution."

Mr. CHIDESTER. Mr. President, I make the point of order. I object to his proceeding.

Mr. EVANS (Weber). Let him proceed.

Mr. ROBERTS. That is all there was to it, Mr. President. I wanted to put that fact before the people.

Mr. CHIDESTER. It is simply reading a proceeding of a meeting that has been ruled out here. It is not proper.

Mr. ROBERTS. I wish to state, Mr. President, that it is not reading what was done at the meeting.

The PRESIDENT. I think the point of order of the gentleman was well taken. I do not think it ought to go in here—a statement of that kind.

Mr. RICKS. Mr. President, I have been trying to get the floor for the last three or four hours. We have been discussing this question now several days, and this is the first time I have undertaken to get the floor, believing that some men were more conspicuous by their silence than other men were by their blab. I have noticed and listened to the reading of these various petitions and I haven't seen one yet from Sevier County, produced against the submission of woman's suffrage to the people either in the Constitution or as a separate article. I came here, Mr. Chairman, pledged to support woman's suf-

frage, and up to the present time, notwithstanding the great eloquence and many eloquent speeches that we have had for the last ten days, I have failed of being converted to an opposite position. I am opposed to the motion of Mr. Varian, or the substitute offered by Mr. Varian, for the reason that I believe if that proposition succeeds and is submitted to a special committee, it will come in here Monday morning and be read the first and second times by title and referred to the committee of the whole. It will come up in the committee of the whole and probably ten days hence we will be right where we are now, with the chances in favor of being mobbed out in the meantime, if the arguments of the future are to be in a line with the arguments of the past, and I am opposed to a further delay of this question.

Last fall, previous to the election in our county, especially, as all over southern Utah, this question of woman's suffrage was discussed by the speakers in both political parties. I cannot say it was discussed upon its merits, because there was none found to champion the opposition—nowhere, but it was discussed by those who were favorable to that proposition. When we came here every intelligent man and woman in Utah knew that we were coming here with the intention of submitting to the people the question of suffrage for women, and we never heard one single remonstrance until we had been here in session nearly one month, and not then, Mr. Chairman, until the opposition to that question was sprung in this Convention. Then it was agitated here until the public mind was wrought up to a pitch almost of frenzy. It commenced to be heard of from the outside. The last two or three days we have had many remonstrances, but they have been signed only by a few people of this city and probably of Ogden. Not one single remonstrance has come here from the people. [Laughter.] Not

one single remonstrance—I should say from the people of the outside counties. Not one single remonstrance has come here from Sevier County, and notwithstanding every woman in the county of Salt Lake may oppose woman's suffrage and may petition this assembly not to incorporate it in the Constitution, it would not change my mind, because I am not here to represent Salt Lake County, but I am here to represent Sevier County, and I expect to represent it until I know that the majority of the people there do not want suffrage. Then I would think that I ought to change as their representative. I am opposed again to any further delay, unless, Mr. President, a proposition could be brought in here that would give a delay until Monday—but I am not in favor of submitting it to any special committee, or even recommitting it again to the old committee. I want it settled by this Convention, and if it could be arranged by unanimous consent to go over until Monday, with the understanding, Mr. President, that when it came up it would be voted upon, without debate, I would not oppose a proposition of that kind.

Mr. LUND. I would like to ask the gentleman a question. Aren't you now quite as conspicuous as anybody else on this floor?

Mr. RICKS. I decline to answer that question.

Mr. SNOW. Mr. President, I wish to call attention to the fact that this mass meeting, the result of which has been represented upon this floor, was called for the expressed purpose of protesting against the incorporation of woman suffrage in the Constitution. The call as issued reads: "The women of Salt Lake City and county who are opposed to equal suffrage being incorporated in the Constitution are hereby cordially invited—"

Mr. JAMES. What has that got to do with it? I arise to a point of order,

what has that to do with the question before the house?

The PRESIDENT. The gentleman is called to order on the proposition.

Mr. SNOW. Well, we have had a good deal to say about it whether it is before the house or not, and we have misapprehended it; we have been begging the question all the time.

Mr. JAMES. I call the gentleman to order.

The PRESIDENT. The gentleman has the floor.

Mr. SNOW. And this comes from those who are opposed to it. It has been interjected into this debate and into the proceedings of this house, and by those who are vehemently opposed to woman suffrage. They have had all the favor, all the courtesy, that have been extended to members upon this floor, and when one member gets up and asserts his right, he is immediately called to order. Mr. President, I am emphatically of the opinion that all this demonstration on the outside against woman suffrage has originated in this house, and that the members have been stirred up by members upon the floor of this house in a way that they could never have been stirred up by any other means.

Mr. ROBERTS. May I ask the gentleman a question? I would like to ask him, what of it—if this agitation did start upon this floor?

Mr. SNOW. I have this to say of it, that it is a manufactured sentiment that is not real. [Applause.]

Mr. ROBERTS. I would like to ask the gentleman another question, if he will permit me. Does he know of any sentiment but what is manufactured and is the result of agitation? [Applause.]

Mr. SNOW. I know this, that there is nobody who desires more than I a free expression of the people. I believe in the democratic principle that a majority should rule, but I do not believe, Mr. President, that anybody should be

coerced by fear, by threat, by menace. I know that the majority of this people have been so accustomed to fear, to acting from motives of fear, that they have almost been accustomed to silence their hopes and their aspirations because of fear. [Applause.]

I say again, Mr. President, that I am of the opinion that the embers have been stirred up by members upon this floor in a way that could never have been accomplished in any other way or from any other source. I am of the opinion that had it not been heralded by the public press that a certain gentleman, renowned in this Territory, would take a firm stand in this opposition, and that there had never been any agitation of this question by this Convention or by the public press of this Territory—these two principles were put in the political platforms of the parties who presented themselves for the people's suffrage last fall, and the public press of this city, that is the representative organs of the two parties of this city and this Territory, vied with each other in explaining to the people the sincerity of the plank which represented that they were in favor of giving equal suffrage to women. Mr. Chairman, it has been stated time and time again, but I will repeat it again, that up to the time of the sitting of this Convention no paper in this Territory—no club, no association, no corporation of individuals, whether it be commercial, social, or political, have raised one iota or one single voice or sentiment against what was incorporated in these party platforms. The people had settled down to the firm conviction that women in Utah were to have every right that is had by men, that equal suffrage hereafter was to be a reality in Utah. Mr. President, the press of the east has noted it; it has been talked of. It has been read about, and everybody had settled down to the conviction that it would come, and to all intents and purposes they were satisfied with the

inevitable. I say that if that article when it was first read had been read now, conditions that existed up to the time of the meeting of this Convention, that it would have gone through in five minutes, and the people of this Territory would have said amen, and there would have been no demonstration such as we have been compelled to listen to. But because members have stirred up old scores and old fears, and spoken of men being insincere and criticised here with honest convictions of being peanut politicians, scurvy politicians, men who knew not the minds of themselves or their constituents, and especially of their constituents—I know the feelings of my constituents, and I want the reporter of the Deseret News, if he is here, to put me down in favor of woman's suffrage, and not give an opposite meaning to what I say, as was done in the remarks I made a few days ago upon this question.

I did not intend to speak. I have tried to keep cool. I have seen so much heat manifested upon this floor, but I saw such desperate means employed by some of the members on this floor to carry their point and to criticise everything in opposition as insincere and even untruthful that I felt that I wanted to defend my position here and the position of my constituents. [Applause.]

Mr. EICHNOR. I would like to ask Mr. Snow a question. Have you ever read the call of the woman's mass meeting that met this afternoon at the Grand opera house in this city?

Mr. SNOW. I just read it.

Mr. EICHNOR. You gave the impression on the floor—at least I took the impression from your remarks, that it was the ladies opposed to equal suffrage.

Mr. SNOW. They were opposed to incorporating it in the Constitution.

Mr. EICHNOR. Submitting it as a separate article?

Mr. SNOW. I was barred out from reading the call. I want to emphasize the

fact that they came to protest and they have protested. It is no wonder it was unanimous.

Mr. VAN HORNE Mr. President, there is only one promise, or one expression of intention that I have made with regard to the question of woman's suffrage before the Convention, and that was that I did not intend to make a fight on the question of woman's suffrage on the ground of principle, although I was opposed to it on principle. I have not made a fight on the ground of principle against the question of woman's suffrage. The only fight that I have made has been on the method of submitting the question to the people.

I believe that we can well afford to listen to our sovereigns when we come to deciding what we shall put in the Constitutional Convention. I will trust the people of Utah to make their decision as to what they want if we give them a chance to do it, and they will decide rightly. Gentlemen come here from away down in the country and speak about their being the representatives of the people. Aren't we the representatives of the people also? Gentlemen say that sentiment has been manufactured since this Convention met. Do they know what the sentiment was before the Convention met in the localities where they do not belong? There may have been no sentiment against equal suffrage for women, in Sevier, or Sanpete, or Washington. I know nothing about that. I know there was that sentiment in Salt Lake County, an integral part of the sovereign people. I know that before this Convention met there was man after man who said that they did not believe that anything ought to be done except to submit it to the people and let them determine whether or not they would have woman's suffrage. I know now that what we have heard and seen is just a little ground swell before the storm of sentiment that those towns will show

and that other communities will show if we insist upon putting this thing to a vote without giving them time to express their opinions before us. [Applause.]

Gentlemen say, let there be peace on this question, but there is no peace if people are not permitted to voice their opinions, to let themselves be heard on what they may think on this question. Peace may be called for, but it will be called for in vain. The mutterings of the storm only have been heard now. You will hear the full burst of thunder when we come to submit to the people the proposition of voting for woman's suffrage, or you cannot have any Constitution. [Applause.]

Mr. MILLER. We accept the challenge and when it shall come to a test, the gentleman from Salt Lake City will realize that the outside counties carry some force. [Applause.]

The PRESIDENT. If there are no other speeches, Mr. Varian will have the floor.

Mr. VARIAN. Mr. President, we have been wandering all day in the doubt and uncertainty of a labyrinth until I for one have become almost lost in its mazes. Fortunately we held in our hands the parliamentary thread that may enable us, if we follow it closely, finally to reach a safe and sure standing ground.

I am not going to detain this Convention long. It is my desire and intention, however, to remove if I may all this matter that is clouding the question before the Convention, and which evidently has caused nearly every member here who has spoken to entertain a misapprehension of what has been before us and what we are considering. I had no purpose at all to resurrect this general discussion upon the question of woman's suffrage. I had not supposed that it would follow, when I early this morning introduced the motion which is the pending question. My purpose was to present before the Convention

the subject in such a shape that those of us who do not agree fully with the majority might have an opportunity of voting our convictions upon this question, and in doing so I have not departed, sir, in the least degree from the position which I have taken since the election, and now that I at least am pledged to submit in some way to the voters of this Territory the question of equal suffrage. But the proposition which is embodied in my motion namely, to recommit with instructions, to report the subject in such shape that it may be voted upon by this Convention as to whether or not it shall be submitted separately to the people, is not new with me, either. I believe the gentleman from Washington (Mr. Snow) made the statement a few minutes ago that until the meeting of this Convention, no question was ever made upon that matter. I beg to say to him and to others that over two months before the meeting of this Convention, or about that time, I submitted that proposition to the bar association of this Territory. It was published at the time and could have been read by any person who desired to read it. That was my conviction then; it is my conviction now.

Now, let us see if we may, just how this question stands here to-day. A report from the committee on elections and rights of suffrage presents for the consideration of the Convention an article governing and controlling that subject. That article has passed through the committee of the whole. It is now upon the calendar of this Convention for its third reading. It has been ruled by you, gentlemen, in the might of your power—ruled on yesterday that no amendment looking towards the separate submission of this proposition, or the submission of this article to the people by way of a separate article, was germane to the subject, and you crushed it out as you remember, so that the question was left in this situation. The reading of

this article must be proceeded with until it should be completed and then debate having ceased, no amendment such as I proposed and such as will be necessary in order to enable me to vote as I want to vote, could be accepted, but the vote must be taken and under our rule no further amendment could be made to that article, except it be to change its dress—its form of expression, correct its errors of grammar or rhetoric or punctuation, if any there should be. It was and would become a fixed and settled fact. So that I and others who agree with me must be compelled either to vote aye or vote no, and I do not wish to do either as it stands, without at least first having an opportunity of voting upon the same article with the added proposition to submit it as a separate vote for the people to vote upon. Now, in order to correct that, I brought in this motion this morning, which gentlemen have been pleased to term irregular. I ask, gentlemen, how irregular? I am ready to be corrected. If gentleman can instruct me upon that question and convince me that this is irregular, I am willing to withdraw the motion. I do not ask the consent of this body to press an irregular motion. I had supposed and I certainly believe now that it is not only regular, but that it is the only motion that could be made here under parliamentary law which would enable me and those who agree with me to accomplish the purpose sought. A motion to recommit with or without instructions to a standing or a select committee is always, under every and all circumstances, as I understand it, a perfectly regular and proper motion upon the third reading and final passage of any bill or proposition. But, yet, I am willing, if I shall be convinced that it is irregular, and the regular and proper way shall be pointed out to me—I am willing to accept the regular and the proper way, because I say to you, I did not make this motion for delay. I

believe in submitting to the will of the majority of this Convention, and I will not wish it to be voted down, or wish it to be carried; when we shall have ascertained the will of the Convention upon it—I will not for one lend myself or my vote to any measures of delay or obstruction.

Mr. Jolley was by his request excused.

Mr. CHIDESTER. May I ask the gentleman a question?

The PRESIDENT. With his consent, yes.

Mr. CHIDESTER. Is it not true that under rule 19, it would be necessary when a report is presented by this special committee to have this printed and referred to the committee of the whole?

Mr. VARIAN. No, sir. The proposition to which the attention of this proposed select committee is to be directed is a proposition for insertion in the Constitution. That is just what I am trying to get at. It is a proposition to be submitted separately, and the rule only applies—and you have no other rule that is applicable to propositions which are to be submitted in the Constitution, and in reply to the gentleman from Weber, who undertook to take up the cudgels of defense for the committee on elections and rights of suffrage, although no member of that committee seemed to feel chagrined or in any degree hurt because the motion did not include the reference to that committee, I will say this, that the reason why it was not proposed to be referred to the standing committee was because the motion contemplates nothing but ministerial action. It does not contemplate leaving to the select committee any discretion whatever. And why? Simply because we desired to get back here in proper form the proposition in such a shape that it would be in order to move for its substitution, and so we could vote upon that question. If it shall carry, on Monday morning, the select committee will embody a command of the Convention

in this report, and the proposition will be back here and will come up on the third reading with this and it may then lawfully—even I believe under the rule laid down by my friend, Mr. Thurman, from Utah County, be a subject of proposed amendment to the pending question, and you have them both side by side. Gentlemen seem to have been under the misapprehension that this motion contemplated taking away from them the question now pending. I do not understand it so. I never intended it so. I simply meant in this way to get an opportunity to make a lawful proposition to amend so that we could vote upon it, and not have it disposed of with a ruling under a point of order being made as it was made on yesterday.

If the gentleman had let his point of order, go by yesterday and if the yeas and nays had been taken on the proposition of amendment, this motion would never have been made. I should never have made it. I would have accomplished all that I seek to accomplish. If it should have been voted down, as I doubt not it will be, I should have said, and I will say on Monday without debate, so far as I am concerned, without another word upon this subject, "If you shall return that proposition here and let us vote upon it, I will not vote in any way to obstruct you in your desire to reach a conclusion upon this question." And I say to you now that in some shape or other I purpose to vote for woman's suffrage in this Convention. Gentlemen, I do believe that you mean all that you say when you talk as if this question had taken up so much time that the time was wasted, that you were being dealt unfairly with. Surely, if you stop to reflect, you will know at once that of necessity you must expect men to differ with you on all public questions. You may expect that particularly on a question of this kind, and more especially as to how the matter shall be submitted to the

people. Your minds are made up, it is true. You are perfectly satisfied, and if fifty-four of you voting reach the conclusion that your convictions were so secure and so matured that you never would change them, you would have the power perhaps to crush out all opposition, bring everything on and have it your own way, and you would probably justify it to your consciences by saying "Well, I know it is right," but remember that the person in the minority would not feel that way. It is grand to have power, but it is superb to use it generously. Now, you cannot pass this article to-night. Let it go to this special committee. Let the matter come back on Monday morning from the committee. Let the proposition come up as we desire it by a motion to amend or by way of substitute, and vote it down if you will, and I for one promise you that no other motion will I make, no other vote will I cast tending in any degree to delay you in the accomplishment of your wishes upon this question.

And now, sir, while there are some things unsaid that I intended to say, out of respect as well as charity for the feelings of the Convention, after this long laborious session, I call for the yeas and nays upon this motion.

Mr. HART. Will the gentleman permit a question? I would ask whether this question would come up on Monday under the motion to commit as it now stands—whether to-day would not be excluded from the account and Tuesday would be the earliest day that it could get back into this Convention?

Mr. VARIAN. Saturday, Sunday, Monday. The last day is counted in and the first day excluded. I am willing if there is any doubt about it, and you will allow me, to instruct the committee to report on Monday morning at 10 o'clock.

Mr. EVANS (Weber). Question on the motion.

Mr. HART. I would like to ask the

gentleman whether if this motion prevails the effect of it would not be that we would have no question before the house to insert directly in the Constitution, and if the position would not be exactly reversed and the only question before us would be whether we would submit this as a separate article or not submit it all?

Mr. VARIAN. I will answer that. Perhaps I ought to have made that more clear before. This committee, under this resolution, is to report a separate article to be submitted with the Constitution. It is also to report the article as you have it now pending, with such revision as should be necessary in case the separate proposition should prevail. That is to say, instead of the article reading now for the equal suffrage of men and women, it would simply provide for male suffrage, because the other proposition having to be submitted separately would not control the question until the vote of the people should have determined it. There it is, one proposition in two parts. The gentleman will remember that on yesterday Mr. Thurman made the point that you have to revise this whole article in order to get an amendment such as was suggested by Mr. Eichnor and make it germane.

Mr. HART. Just one more question, whether this proposition would not lose its place on both our calendars and go the foot of the calendar of the committee of the whole?

Mr. VARIAN. I have given my idea about it; it does not go to the committee of the whole at all. It goes on the third reading. It comes right up with this on Monday when we reach it.

Mr. BUTTON. Cannot you add to your motion that it will be the first thing taken up on Monday after the regular order?

Mr. THURMAN. That is not in order.

Mr. EVANS (Weber). Question on the motion.

The PRESIDENT. The secretary will

read the motion so that every gentleman may understand what he is doing.

The secretary read the motion of Mr. Varian.

Mr. JAMES. I suppose Mr. Varian would accept Monday in place of three days.

Mr. VARIAN. I would like consent to have that changed to read, with instructions to report Monday at 10 o'clock.

Roll call on Mr. Varian's motion to recommit the article on elections and right of suffrage, showed the following result:

AYES—42.

Adams	Lund
Bowdle	Mackintosh
Button	Maloney
Clark	McFarland
Crane	Murdock, Summit
Cushing	Page
Eichnor	Peterson, Grand
Eldredge	Peterson, Sanpete
Emery	Pierce
Gibbs	Roberts
Goodwin	Ryan
Green	Sharp
Haynes	Shurtliff
Hill	Spencer
Hyde	Squires
James	Stover
Kiesel	Strevel
Keith	Thompson
Kimball, Weber	Van Horne
Lambert	Varian
Larsen, L.	Wells.

NOES—52.

Allen	Kimball, Salt Lake
Anderson	Lemmon
Barnes	Lowe, Wm.
Boyer	Lowe, Peter
Brandley	Low, Cache
Buys	Maeser
Call	Maughan
Cannon	Miller
Chidester	Morris
Christiansen	Murdock, Beaver
Coray	Murdock, Wasatch
Corfman	Partridge
Creer	Peters

Cunningham	Preston
Driver	Raleigh
Engberg	Richards
Evans, Weber	Ricks
Farr	Robertson
Hammond	Robinson, Kane
Hart	Robison, Wayne
Halliday	Snow
Heybourne	Symons
Howard	Thoreson
Hughes	Thorne
Ivins	Thurman
Johnson	Whitney.

ABSENT—10.

Evans, Utah	Moritz
Francis	Nebeker
Kearns	Thatcher
Kerr	Warrum
Larsen, C. P.	Williams.

Mr. Jolley and Mr. Lewis were paired.

The president declared the motion to recommit lost.

Mr. CHIDESTER. Mr. President, I move the previous question.

Mr. VARIAN. What is the previous question?

Mr. CHIDESTER. On section 1.

Mr. VARIAN. Mr. President, I arise to a point of order on that. We do not call the ayes and noes until we get through with the reading.

The PRESIDENT. Through with the reading of the entire section.

Mr. VARIAN. Once will do, won't it?

Mr. RICHARDS. I move that section 1 of the article on elections and rights of suffrage be passed.

Seconded.

Mr. RICHARDS. I move the previous question on it.

Seconded.

The PRESIDENT. All that are in favor that the main question be now put will say aye.

Those opposed, no. The ayes seem to have it.

(Division called for.)

(Ayes and nays called for.)

The PRESIDENT. The secretary will call the roll.

Mr. EVANS (Weber). I would ask of

Mr. Richards if he would not withdraw that motion for the previous question. There may be some gentleman who desires to offer some amendment. It will simply consume a lot of time.

Mr. RICHARDS. I am willing to withdraw it if some gentleman desires to speak. I desire to say that the reason why I called for the previous question was because I assumed from the remarks made on the other motion that there would be no further opposition to the vote. I am willing to withdraw it if any gentleman desires to offer an amendment.

The PRESIDENT. If there is no objection the gentleman shall have the privilege of withdrawing the motion.

Shall we proceed with the reading of the article?

Mr. BUTTON. Mr. President, I move we adjourn until Monday morning at 10 o'clock.

Mr. EVANS (Weber). Mr. President, the question now is on the passage of section 1.

Mr. SQUIRES. Mr. President, a motion to adjourn is in order.

Mr. EVANS (Weber). I know it is; we can vote it down, though.

The PRESIDENT. The question is the adoption of section 1 of the suffrage article. All in favor of its adoption—

Mr. SQUIRES. Mr. President, I heard a motion here to adjourn, which is always in order.

The PRESIDENT. I did not hear it. There has been a motion to adjourn, gentlemen.

The question being taken on the motion to adjourn, the Convention divided and by a vote of thirty-four ayes (noes not counted) the motion was rejected.

The PRESIDENT. The question before the house is on the adoption of the section.

Mr. ROBERTS. I would like to hear the section read. There has been so much clamor I have most forgotten how it did read.

Section 1 was read by the secretary.

Mr. Lambert offered the following amendment:

Every citizen of the United States, not laboring under any of the disabilities named in this Constitution, of the age of twenty-one years and over, who shall have resided in the State one year, and in the county six months, and in the voting precinct sixty days, next preceding any election, shall be entitled to vote for all officers that now are or hereafter may be elected by the people, and upon all questions submitted to the electors at such election, except as herein otherwise provided.

Mr. THURMAN. Mr. President, I move to lay that amendment on the table.

Seconded.

Mr. HART. The question is whether that would not take the main proposition with it.

Mr. THURMAN. I will withdraw it.

The PRESIDENT. Gentlemen, there is a proposed amendment before the house.

Mr. LAMBERT. Mr. President, I would like to talk to that amendment. In 1882 or previous to 1882 the women of Utah had the right of suffrage. In 1882 a constitutional convention was called in Utah, and after due consideration of this question, after weighing it in every way, the article that I have sent up was what was submitted. In that constitution for Utah in 1882 it covered the ground then and it gives to-day all that the women of Utah ask. The women of Utah to-day are not asking to be policemen, are not asking to be constables, are not asking to be sheriffs, are not asking to sit as justices of the peace, are not asking to be forced into the jury box.

Gentlemen of the Convention, we should consider this question. Last summer I visited Wyoming. The people in Wyoming to-day admit that they have bit off more than they can chew. They admit that though they have these same sections that are offered here in their constitution, that it is inoperative, and I am anxious to see the women of Utah have the right of suf-

frage, but I am not anxious to see our Constitution burdened and hampered and our future legislatures hampered and hindered in the performance of their duties. Gentlemen, this is a grave question. It is a question that comes to our homes. Men here tell what their constituents have said. My constituents ask me for suffrage, and there for it to stop. I have taken particular pains to visit through the second precinct of Salt Lake City, the largest voting precinct in Utah Territory. I have conversed with leading women of that precinct, and I have found not one who is anxious to fill these offices, but they simply ask a limited franchise of the right to vote on questions that interest them and deeply interest them, and gentlemen, I affirm that this gives them every right that they can ask for, every right they want, and it should be considered.

The amendment of Mr. Lambert was rejected.

The roll being called on the adoption of section 1, the vote was as follows:

AYES—75.

Allen	Larsen, L.
Anderson	Lemmon
Barnes	Lewis
Boyer	Lowe, Wm.
Brandley	Lowe, Peter
Buys	Low, Cache
Call	Maeser
Cannon	Maloney
Chidester	Maughan
Christiansen	McFarland
Clark	Miller
Coray	Morris
Corfman	Murdock, Beaver
Crane	Murdock, Wasatch
Creer	Murdock, Summit
Cunningham	Partridge
Driver	Peters
Eichnor	Peterson, Grand.
Eldredge	Peterson, Sanpete
Emery	Preston
Engberg	Raleigh
Evans, Weber	Richards
Farr	Ricks

Francis	Robertson
Gibbs	Robinson, Kane
Goodwin	Robison, Wayne
Hammond	Shurtliff
Hart	Snow
Halliday	Squires
Heybourne	Strevell
Howard	Symons
Hughes	Thompson
Hyde	Thoreson
Ivins	Thorne
Johnson	Thurman
Kimball, Salt Lake	Wells
Kimball, Weber	Whitney.
Lambert	

NOES—14.

Haynes	Pierce
Hill	Roberts
Kiesel	Ryan
Keith	Sharp
Lund	Spencer
Mackintosh	Stover
Page	Van Horne.

ABSENT—12.

Adams	Moritz
Evans, Utah	Nebeker
Jolley	Thatcher
Kearns	Varian
Kerr	Warrum
Larsen, C. P.	Williams.

Messrs Bowdle, Button, Cushing, Green and James were excused from voting.

During the roll call the following explanations were made:

Mr. BOWDLE. Mr. President, I wish to be excused from voting on that proposition, and I wish to state my reason for it. I am in favor of woman suffrage being submitted, and had I had the opportunity of voting on that proposition here, and it had gone down, I should now be prepared to vote on this; but I shall not vote if the Convention will excuse me.

Mr. BUTTON. Mr. President, I wish to be excused for the same reasons stated by Mr. Bowdle.

Mr. CUSHING. Mr. President, I wish to be excused for the same reason.

Mr. GIBBS. Mr. President, I would like to be recorded in that way. I vote aye in favor of women having the suffrage, but I would like to vote no on it going in the Constitution.

Mr. GOODWIN. Mr. President, I still expect that a wave of solid American common sense will come over this Convention before it adjourns, and that they will put this plank in as a separate measure to submit to this people; but for the present I want to say that while I have given my reasons, I think it is a dangerous experiment to give suffrage to women indiscriminately, even as it has been to give it indiscriminately to men; under my ideas of duty I am going to record my vote aye to-day; still thinking that some of my misguided friends will have some American common sense come to them before we adjourn, and we will come to a reconsideration.

Mr. GREEN. Mr. President, I wish to be excused from voting on this question. I wish to state further, that I wish to vote on a separate article, as I am thoroughly in sympathy with that way of doing—give the people a fair chance to express their opinion upon it.

Mr. JAMES. Mr. President, I wish to be recorded as declining to vote on a proposition that does not permit me to vote my honest convictions; my honest convictions are that this matter should have been submitted so that I had an opportunity to vote for a separate article to go before the people. This Convention has seen fit to refuse me the privilege of casting my vote in that way, which is the free born right that belongs to every American citizen, and I do not wish to vote.

Mr. CANNON. Mr. President, I would like to explain that Mr. Jolley expected to get back in time to vote on this. He did not anticipate the vote would be taken so soon. He told me he would vote aye if here.

Mr. LAMBERT. Mr. President, I want to be recorded aye on that, with

a privilege of asking for a reconsideration.

Mr. MAUGHAN. Mr. President, I want to be recorded aye on this proposition, with the right that if there should ever a wave of common sense come—

Mr. HART. I call the gentleman to order. No one has a right to reflect upon the judgment of this body of men, and say that they are not exercising common sense.

Mr. MAUGHAN. I did not think I had made any such a statement.

Mr. HART. I so understood the gentleman. I call him to order, any way.

Mr. MAUGHAN. If this wave should come, I will record my vote no, and vote for separate submission.

Mr. McFARLAND. Mr. President, I wish to be recorded as favoring a separate article, but will vote aye on this.

Mr. PAGE. Mr. President, I would gladly have voted for the submission of a separate article, granting woman the right of suffrage, but as this question came up, I feel it my duty to vote no.

Mr. RYAN. Mr. President, the people of my district are opposed to woman suffrage. They were willing, however, that every delegate should vote for it, if it was a matter of keeping party pledges; and the people or the Convention were in favor of it. They want a separate article. So do I. I feel that this is somewhat forced—the vote on the article, and I shall be compelled to vote no.

Mr. SPENCER. Mr. President, I desire to explain my vote. I intended to vote no, and I only have one request; that is, that the chairman or president will instruct the secretary to underscore that no.

Mr. IVINS. President, I arise to a point of order. Under the rules no gentleman has a right to explain his vote unless he wishes to be excused from voting; and I object to the gentlemen explaining the reason why they vote either aye or no; if they want to ex-

plain, and be excused, they can do it under the rule.

The PRESIDENT. That is well taken.

Mr. HART. Mr. President, I would like to explain in behalf of Mr. Warrum, that he was unfortunately called away this afternoon, but he was in favor of woman suffrage.

Mr. BOWDLE. I call the gentleman to order. He cannot vote for somebody that is away from here.

Mr. EICHNOR. I shall vote aye, and when the wave of public sentiment sets in, as my friend Mr. Maughan says, I shall move to reconsider.

The PRESIDENT. The section is adopted, gentlemen.

Mr. VAN HORNE. Mr. President, I move that we do now adjourn until Monday next.

The PRESIDENT. It will be understood, gentlemen, that to-morrow is a holiday. The adjournment will be until Monday at 10 o'clock.

The motion was agreed to and the Convention then, at 5:45 o'clock p. m., adjourned until next Monday morning at 10 o'clock.

THIRTY-SIXTH DAY.

MONDAY, April 8th, 1895.

The Convention was called to order at 10 o'clock a. m. by President Smith.

The roll was called and all members found in attendance except Mr. Thatcher.

Prayer was offered by Rev. John D. Nutting, of the Congregational Church.

Journal of the thirty-third day's session was read and approved.

Messrs. Nixon, Farr and Davis were admitted to seats on the floor of the Convention.

The following petitions were presented asking that the question of woman's suffrage be submitted as a separate article to the vote of the people:

File No. 180, signed by Mrs. L. C. Trent of Salt Lake and 43 others, by Eichnor of Salt Lake.

File No. 181, signed by Oscar Maunburg of Salt Lake and 199 others, by Goodwin of Salt Lake.

File No. 182, signed by C. R. Aley of Provo and 18 others, by Corfman of Utah.

File No. 183, signed by C. E. Miles of Payson and 37 others, by Lemmon of Utah.

File No. 184, signed by R. G. Wilson of Eureka and 38 others, by Ryan of Juab.

File No. 185, signed by F. S. Hynds of Juab County and 35 others, by Ryan of Juab.

File No. 186, signed by E. S. Kirby of Salt Lake and 58 others, by Ryan of Juab.

File No. 187, signed by James McEvoy of Mercur and 120 others, by Stover of Tooele.

File No. 188, signed by R. C. McKinney of Ogden and 79 others, by Kiesel of Weber.

File No. 189, signed by W. W. Woodring of Mt. Pleasant and 50 others, by Page of Sanpete.

File No. 190, signed by Chester B. Marshall of Salt Lake and 29 others, by Stover of Tooele.

File No. 191, signed by John Egan of P. V. Junction and 28 others, by Thurman of Utah.

File No. 192, signed by Leslie Thompson of Salt Lake and 350 others, by Eichnor of Salt Lake.

File No. 193, signed by P. W. McCaffery, chairman of a workingmen's meeting held in Salt Lake City, by Eichnor of Salt Lake.

File No. 194, signed by John J. Donovan of Salt Lake and 154 others, by James of Salt Lake.

Ordered filed.

Mr. Peter Lowe of Box Elder presented a petition, File No. 195, signed by Mary Ann Hubbard and 139 others, asking that a section providing for woman's suffrage be adopted.

Ordered filed.

The following petitions were presented asking that the question of prohibition be submitted in a separate article to a vote of the people:

File No. 196, signed by N. C. Christensen and 37 others; by C. P. Larsen of Sanpete.

File No. 197, signed by Rasmus Jensen and about 260 others, by Lund of Sanpete.

Referred to the committee on schedule, future amendments and miscellaneous.

Mr. WILLIAMS. Mr. President, I was not present when this motion was made to adopt section 1 of the article on elections and rights of suffrage. If it could be, I would like my name now to be recorded as voting with the ayes.

Mr. SQUIRES. It is not in order.

Mr. JOLLEY. Mr. President, unavoidably, I had to be excused at the last session in the evening, and I got Mr. Lewis to pair with me on the vote of submitting to another committee the suffrage question. The vote was taken on the final question and section 1 was passed. Had I been there I would have voted in the affirmative, and I wish it recorded as such, because I don't want it lost—

The PRESIDENT. The matter has not been passed yet.

Mr. SQUIRES. Mr. President, all those gentlemen who were absent on Friday will have that opportunity when it comes to the roll call of the final passing of this article.

Third reading of article on elections and rights of suffrage.

The PRESIDENT. The chair will announce that section 2 of the article on elections and rights of suffrage is the matter now before the house for consideration.

Mr. ELDREDGE. Mr. President, I move that we suspend the rules and go into committee of the whole, in view of the vast amount of work that we have on the calendar of the committee of the whole. It will bring before the dele-

gates work perhaps that they have not had their special attention called to.

Seconded.

Mr. CHIDESTER. Mr. President, I object to that motion and suggest that it is as important to go ahead with this as it is to go into committee of the whole and take up new business and bring it into the Convention. We have started on this and there is just as much importance to the balance of this bill as any other bill before the house. Inasmuch as we have started in on it, it would be proper to get through with it.

Mr. RICKS. Mr. President, I hope that that motion will not prevail. I don't see any necessity of leaving this article half finished. I think we ought to complete it.

Mr. HEYBOURNE. Mr. President, I am of the opinion that this is something out of the ordinary line to switch off in this business. I hope the gentleman's motion does not prevail. I do not think it is going to take this Convention but a very little while to consider this matter that is now before it. Then we can pass on to another. I should oppose the motion to go into committee of the whole.

The question being taken on the motion of Mr. Eldredge, the Convention divided, and by a vote of 25 ayes to 46 noes, the motion was rejected.

Section 2 was read.

Mr. PAGE. Mr. President, I move to amend section 2 by inserting the words "and none others" in the 6th line between the word "elections" and the word "shall;" that will do away with the necessity for section 5 that it was voted to strike out when it was up before.

Mr. EVANS (Weber). Mr. President, I would like to ask the gentleman from Sanpete if that is not as strong now as it would be if those words were inserted. It simply defines who may vote, and that would exclude all others.

Mr. PAGE. What was the remark of the gentleman?

Mr. EVANS (Weber). That is my view of it. That it would be just as strong as it now stands as it would be if your amendment prevailed. No persons can vote anyway except those enumerated in the section; I do not see the necessity of the amendment.

Mr. PAGE. Mr. President, at the time this was under consideration before, we voted to strike out the fifth section, and it was thought by some gentlemen that the first three lines of section 2 did not sufficiently describe the qualifications. The Legislature might, in their discretion, allow still others to vote that were not covered by this particular ground. I thought this was likely to do away with any question. I think it was my friend, Mr. Thurman, that raised that question, if I remember that right.

The PRESIDENT. According to the secretary's record here, the fifth section is not stricken out.

Mr. THURMAN. It was reinstated.

Mr. PAGE. The fifth section was stricken out, and then there was a motion again to reconsider, which brought it back to the condition in which it formerly stood.

Mr. VAN HORNE. Mr. President, it does not seem to me that there is anything in the objection that the section of this article is not sufficiently specific. There is a well known principle of law, that if you mention a qualification, it excludes any other qualification than those mentioned, and I think that by saying what the qualifications of the electors in this State shall be, the mere fact that the Constitution legislates upon that question excludes any others than those that possess that qualification from the suffrage of this State. I do not see that there is any necessity for the passage of section 2, that that section 5 should remain there, even without the words of the amendment.

Mr. THORESON. Mr. President, I

have the same opinion of this matter as the gentleman who just preceded me, and we find that section 26 of the bill of rights covers this ground.

The amendment of Mr. Page was rejected.

Mr. STOVER. Mr. President, I move to strike out the word "sixty" in line 5, and insert "thirty," as the law stands now.

Mr. RYAN. Mr. President, I move to amend by striking out in lines 5 and 6 the words "and in the precinct sixty days," and inserting in line 5, after the word "county," the words "and precinct"—four months in the county and precinct. I would not make any distinction there.

Mr. VAN HORNE. I second Captain Stover's amendment.

Mr. JAMES. Mr. President, before you put the motion, I also want to second Mr. Stover's motion for this reason, that it will only work a hardship to some voters and be no protection to the balance, to make it sixty days in the place of thirty. You have put a provision in requiring a residence of one year, and ninety days a citizen. Now, that is the protection that will go to the ballot, outside of any regulations from one precinct to another, or merely inconveniences. Particularly if it is a long period before the day of voting. As we know, a great many men, and particularly as poor men, that do not own their own homes, and rent, and move from one precinct to another, and are just as qualified to vote as though they were men in their own precinct, but if this long period is fixed, it will, in many instances debar a legal voter from a vote.

Mr. VAN HORNE. Mr. President, I call attention of the members in this Convention to the fact that in Salt Lake City the change of precincts is often a change of simply moving across the street in the same city. For instance, from the first to the second precinct it is across Main street, from the first to the fifth precinct it is across Third South street, from the

fifth to the fourth precinct it is across South Temple street; from the second to the third, across South Temple street. A man simply moving across the street under this provision of living would be debarred of his suffrage. I think the United States law took that matter elsewhere into consideration, in fixing the period at thirty days. The intention is not to exclude any one from suffrage because of his change of residence, but it is simply to put the necessary check upon regularity of the vote. To say that we know this man is entitled to vote, because we know that he has lived here for a year in the Territory, and he has been where we could find him for thirty days preceding this election. That is the intention of the residence in the precinct, it is to identify the voter. Well, he can be identified by thirty days' residence as well as by sixty. The only thing is to have a check upon a legal voter, and that is done by thirty days as well as sixty.

Mr. THURMAN. Mr. President, I favor the amendment of the gentleman from Juab, Mr. Ryan, because I believe it insures a stable vote. I think it may be a little questionable whether this should absolutely be tied up. The Legislature should have the privilege, under proper regulations, to provide for transfers of the right to vote, but I believe that a four months' residence in the precinct is little enough—the same residence in the precinct as exists in the county. Thirty days in a case of colonization is not a very great length of time to take votes of one part of the county into another. It might be a municipal election that people wanted to carry, and all they would have to do would be to go in the other precincts near by and colonize them for a few days in the city. I think everybody ought to want to guard against extending the right to vote to that class of voters, and we have had it in this Territory. It is said by most of the old parties that most of them re-

sorted to it to the everlasting shame of the honest people. Let us provide in the Constitution for such an emergency as that in the future, and not leave it open so that it may be done; while at the same time try to allow every man that has a right to vote a fair opportunity to do so.

Mr. EVANS (Weber). Mr. President, I am opposed to the amendment, and will give my reasons in a moment. In cities as large as Salt Lake, Ogden, and Provo, people frequently move from one precinct to another, those people who have lived there probably all their lifetime, and it seems to me that it would be improper to disfranchise a man simply because he goes from one precinct into another. Now, I could give an illustration of myself. Twice I have moved in Ogden, and yet I have lived there a good many years. Under a provision of this kind, I would not be entitled to vote; probably it would be just as well for me, but other people would like to have that right. I like the section just as it stands, or else would like the whole thing struck out and leave it to the Legislature.

Mr. RYAN. Mr. President, my object in offering that amendment is simply that I think it will give us the fairest elections, and it being the inception of political power, you will always have good elections. I would not make any other qualifications. I would strike out section 8 of this bill entirely, because I believe a poor man has just as much right to vote on school elections and for public indebtedness as a rich man; but I think we should regulate it at that point. I think this is the place to guard, and if you guard well here you will be right all through.

Mr. EICHNOR. Mr. President, I hope the amendment of the gentleman from Juab will not prevail. If this Constitution is going to set the example, a poor man will have no chance in this Territory. It does not only affect Salt Lake City, but go out in the precincts where

the young men are—for instance, they work one place and then go to another place. If you are going to disfranchise these young men of Utah Territory, set the example.

Mr. RYAN. Will you let me ask you a question?

Mr. EICHNOR. Yes, sir.

Mr. RYAN. If this entire Convention was forever disfranchised, would the State suffer?

Mr. EICHNOR. I believe not. If you are going to legislate what you say we are doing here in the interests of the people that have their homes, why say so. If you want to give a little show to the poor man or a man who may have had property in his time and had it struck away by misfortune, why make the time reasonable time, but four months is an unreasonable time. I tell you, some of you men may have property at this stage of the government, but you do not know how long you may have it. You may be as poor as the rest of us.

Mr. CREER. Mr. President, I am in favor of the section as it stands. I think it is more conservative as it stands now, and probably it will obviate ourselves from the conditions of colonizations we have seen in the past. I think the section to allow four months' residence in the county and in the precinct, with the other qualifications here, it seems to me would put all the safeguards necessary in this matter, and I am in favor of placing it in the Constitution as it now stands.

Mr. STOVER. Mr. President, it has been a provision of our statute for a great many years, thirty days, and I see no reason now why it should be changed at this time. It would certainly deprive a great many people of the suffrage, because, as the gentleman has said, they change residence frequently, and it would deprive thousands of their suffrage. Therefore, I hope the amendment will prevail.

The amendment offered by Mr. Ryan was rejected.

The amendment offered by Mr. Stover was rejected.

Section 3 was read by the secretary.

Mr. VARIAN. Mr. President, it is quite possible, although I am not prepared to make a specific objection, but there might be some other occasion when electors ought to be arrested, except for breach of the peace. The Legislature might establish offenses against the election law which would not reach the dignity of felony, and this article would prevent any arrest as it stands. It seems to me it would prevent the arrest of a man guilty of such an offense when he ought to be arrested right at the time. It would not be a breach of the peace. I think that we had better consider that a little more. The truth is, I see no necessity for having the section there at all, but the Convention has passed upon it. A little reflection perhaps will convince us that there may be some offenses relative to the election laws which ought to be arrested at once, that is, to arrest the offense and arrest the offender.

The PRESIDENT. Does the gentleman make a motion in regard to this question?

Mr. VARIAN. If the Convention chooses to pass it I will endeavor to present it before they get through with the next two or three sections.

Mr. EVANS (Weber). Mr. President, I will move to amend section 3 by inserting after the word "felony," in line 2, the following words, "crimes against the elective franchise."

Mr. VARIAN. I think that would obviate the objection.

Mr. THURMAN. Mr. President, if that section is to be retained at all, I think it is safer and better to strike out the entire section and leave it to the Legislature to determine. I am opposed to the amendment. I do not feel ready yet to offer to strike it out. I am opposed to the amendment proposed by

the gentleman from Weber, for one reason, and that is, that the very object of this section in the Constitution is to guard the right of the voter on election day against trumped up charges made for the purpose of hurrying him, perhaps to prison, or away from the polls, by which he may lose his vote. Now, on election day there are a great many crimes ordinarily against the elective franchise—interference with voters and things of that kind. I do not think it was the intention—I do not think it is in accordance with the genius of our country and our institutions, that men on election day should be arrested for crimes of this kind if they are made by law merely misdemeanors. So I think it is unsafe to put in this sweeping clause proposed, and would be better still to strike the whole thing out and leave it to the Legislature.

Mr. EICHNOR. Mr. Chairman, the way the section stands, without an amendment, would that not afford protection for a repeater or a colonizer to vote—just the very evil of which you gentlemen spoke a little while ago?

Mr. THURMAN. Yes, it would deprive perhaps a man who is entitled to vote of his right to vote. Now, there are other ways of reaching colonizers, besides providing for it in this section, but this section speaks of election day. You want to deal with colonizers before election day comes on as much as possible, and see that they do not get their names on the list, and on election day of course there is still another opportunity, but this is a question here confined exclusively to the day of election, when the electors go to the polls to vote. If the charge can be preferred against him and he can be arrested and perhaps thereby deprived of his vote, it subjects him to a condition which might be very unjust. I wish to say this, while I have not dealt much in this kind of argument in this Convention—I wish to say that this I presume, as it stands here, is the most familiar, usual, and ordinary

provision to be found in any of the constitutions of the states. I believe it is in effect in every constitution of the United States, just about as it stands here.

Mr. ANDERSON. Mr. President, I am opposed to the amendment, and hope that it won't prevail. I think that it would destroy the very object for which this section was passed.

On election day excitement generally runs high, and if this amendment would pass, why it would make it possible for charges to be trumped up against a great many electors and thereby deny them a right to vote, and therefore, I am opposed to the amendment.

Mr. VARIAN. Mr. President, that is quite true. That always exists, that possibility. Charges may always be trumped up against a man. The question is in a case where they are not trumped up. Now, I doubt not if any respectable citizen has a charge trumped up against him at the polls will have little difficulty of finding means of immediate relief.

The objection in making the suggestion that I had in view, was not to tie up the hands of the Legislature in this matter. If we are going to legislate in the Constitution on this subject, it occurred to me we might at least broaden the section a little. There are many offenses against the elective franchise, which, of necessity, have to be dealt with summarily. This is one of the reasons why you are required to have officers at the polls. They do not reach the dignity of felony. They are misdemeanors, both in fact and in law. They ought not to be made felonies, and yet through a systematic effort and concert of purpose, a number of persons may be enabled to do just what these gentlemen are seeking not to have done—that is, prevent lawful voters from voting.

Mr. EVANS (Weber). Mr. President, I admit that the section is designed to prevent people being harassed when

they are going to the polls, by unauthorized arrest. But as the section now stands, let us see what can be done by a voter. A voter, if he so desires, could start on his way to the polls leisurely along, and might, under the laws of our Territory, as they now stand, purchase the vote of divers persons on his way and secure their assistance in casting a ballot. That would be nothing but a misdemeanor? He might secure the drunkenness of a lawful voter. That is, he might conduct himself in such a way as that voter should become intoxicated, so that it would prevent them from going to the polls, and, as Mr. Varian says, many things could be done under this section as it now stands. and he is right when he says the section is for the purpose of reaching a crime, not for the purpose of trumping up charges. If any individual trumps up a charge against a voter, he is liable for false imprisonment. He has that check upon him. It is only to meet that class of people who commit crimes against the elective franchise, and every expression I have heard upon this floor is to secure the purity of elections. If a person should go out upon the street when he is going to the polls and make a little noise, under this section he would be arrested, but if he should go out upon the street and secure by improper means the votes of other individuals by purchasing their votes, he would be exempt.

Mr. THURMAN. Would it not be a felony to do that anyway?

Mr. EVANS (Weber). No, sir; it is a misdemeanor under our statute. It is a felony to receive a bribe, but it is only a misdemeanor to give it, strange as it may seem. I had occasion to examine that and prosecute some people who have been guilty of these offenses.

Mr. EICHNOR. Impersonation, is it a misdemeanor too?

Mr. EVANS (Weber). Yes. If a man happens to be unfortunate enough to make a little noise, as I stated, he can

be arrested while going to the polls, but if a man does the other thing, which strikes at the very foundation of representative government in improperly influencing a vote, he is exempt from arrest and he can go leisurely along to the polls and can stand about the precinct of the city and do these things, and if an officer comes up to arrest, he can say, "Hands off, the Constitution protects me. You cannot arrest me now. I am on my way to the polls to cast my ballot."

And he might make that assertion all day and vote late in the evening, and would be entirely free and exempt from arrest. And when the sun goes down and the polls close, probably that fellow has taken some underground railway, and has left the town and cannot be arrested at all. I may be mistaken, but it seems to me I have read in a good many of the constitutions provisions of a similar nature. I think it is a proper one to be inserted.

Mr. CREER. Mr President, I am opposed to the amendment for the very reason that the gentleman has indicated in his remarks, that there are so many ways in which a person can violate the elective franchise, and it seems to me that it is a matter that ought to be left to the Legislature. There is no question but what that is a proper thing to legislate upon, but by this amendment placed in a general way, it would not suffice, it seems to me, to reach that dilemma; that of treason, which is very rare indeed, but felony is the universal rule in all of the states, and breach of the peace. We know that there should be order preserved notwithstanding the gentleman may say that merely making a noise—but the idea that there is order preserved at the polls, that is the object in placing this in there; and I think that is sufficient without particularizing and going into the matter of elective franchise. I am in favor of the section as it stands.

Mr. SQUIRES. I would like to ask

Mr. Creer a question. If this section is left as it now is, could the Legislature come in and legislate for those other offenses against the elective franchise?

Mr. CREER. Certainly they can.

Mr. SQUIRES. I do not so understand it.

Mr. CREER. Would there not be law still existing—

Mr. SQUIRES. If we make a restriction here I do not see how the Legislature is going beyond this.

Mr. CREER. It is not a restriction. It is silent as to that.

Mr. SQUIRES. I would be in favor of striking the last section out, leaving the whole matter to the Legislature. I move the whole section be stricken out.

Seconded.

Mr. VARIAN. Mr. President, we should take a vote on the other amendment first.

Mr. ROBERTS. Would that shut off remarks on striking out the section?

The PRESIDENT. No, we will put the amendment.

Mr. ROBERTS. Is the amendment offered by Colonel Squires now open for remarks?

The PRESIDENT. No; Mr. Evans, of Weber, made an amendment to it, which is the matter for consideration.

Mr. SQUIRES. I move to cut out the whole section.

Mr. ROBERTS. That is now open for remarks, I presume.

The PRESIDENT. Yes, sir.

Mr. ROBERTS. I certainly shall vote in favor of that amendment to strike it all out, because, sir, I take it that all such provisions as this section provides for, will not be necessary now, we having adopted the first section. We are going to have such purity in politics, and at the polls, that this section will not at all be necessary, and I am heartily in sympathy with the motion that strikes it out.

Mr. EVANS (Weber). Mr. President, I would call attention to some of the constitutions which have the same pro-

vision in. Mr. Eichnor has kindly furnished me with it. Kentucky has provided that voters in all cases, except treason, felony, breach or surety of the peace, or violation of the election laws, shall be privileged from arrest during their attendance at elections and while they are going to and returning therefrom. I think the gentleman from Utah, Mr. Thurman, will not dispute that authority. Also North Dakota has a very similar provision in it, and I did not have time to go any further, but I was satisfied that such provisions were found in the constitutions.

The amendment proposed by Mr. Evans was rejected.

Mr. SQUIRES. Mr. President, I move we strike the whole section out.

Mr. CHIDESTER. Mr. President, I see in the constitution of Maine that there is a provision that is worded the same as it is worded here, and in the state of Colorado there is one that is worded the same, and in California. I haven't had time to look for any more. It seems to me that if it has been found necessary in other states, it might be found necessary here. There is no valid reason why it should be entirely stricken out. I believe it is a proper provision to be in the Constitution.

Mr. BUYS. Mr. President, I certainly think we ought not to strike this section out? It is a guaranty to the people that they shall not be arrested on that day on trumped up charges, and to avoid disgraceful scenes that have occurred in some of the states. Nearly every state in the Union contains an article of this kind in the constitution, and it seems to me that we ought not to strike this out of our Constitution and let the bars down so that trumped up charges can be brought against any person and he be arrested and prevented from casting his ballot on election day, and I think that we will simply make a mistake if we leave this to the Legislature. The Legislature may make suitable provisions and they may not, and

we are left just in that condition until they do, and perhaps they will not do so, and I certainly think we are making a mistake if we strike this section out of our Constitution.

Mr. VARIAN. Mr. President, if this motion shall prevail, it will probably be incompetent to entertain the motion to insert. I will therefore offer this amendment. Strike out the section and insert the following:

The Legislature shall provide by law for the cases of exemptions of electors from arrest on the day of election.

That will leave the whole subject to be dealt with by the Legislature.

Mr. SQUIRES. I accept that as part of the other motion.

Mr. EVANS (Weber). I would like to ask Mr. Varian a question? What is the necessity of inserting that? The Legislature would have that power without it, would it not?

Mr. VARIAN. To meet the apprehension of many members that the Legislature would not act. I think we had better have a declaration in requiring the Legislature to act.

Mr. EVANS (Weber). Would that require the Legislature to act?

Mr. VARIAN. It says "shall." It says the Legislature shall.

Mr. EVANS (Weber). As a matter of constitutional law, would it? Would there be any power over a Legislature to compel them to act?

Mr. VARIAN. The same moral power that compels every state power to obey the constitution.

Mr. EVANS (Weber). About the same as a political platform?

Mr. THORESON. Mr. President, I am in favor of leaving this section just as the committee reported it. It is in harmony with many other constitutions of the different states, and it seems to me that it is a wise provision, and I think we ought to retain that section and vote down all amendments.

Mr. EICHNOR. I would like to ask Mr. Buys, of Wasatch County, a ques-

tion. You spoke of trumped up charges. Is not it as easy to trump up a charge of felony as a misdemeanor?

Mr. BUYS. I think not. I think the section ought to stand just as it is, I think it just what we want, as I said before. The gentleman from Cache says we need some guaranty against arrest on that day, and we know now just as well as the Legislature will know about what we want, and I don't think that it will be a wise provision to leave this matter to the Legislature to put in there just what they wish. We have a better representation here of this State, of the future State, than we will ever have in the Legislature. There are more men here and know just as well what we want as the Legislature will know, and if this is not what we want let us make it what we want, but certainly have some guaranty in this Constitution guaranteeing the citizens of this State against arrest, and I think it is just what we want as it is, and I shall certainly vote for it.

Mr. THURMAN. I will ask you if you don't think it is altogether improbable that there will ever be as bright a lot assembled together again?

Mr. BUYS. Yes, sir; I do.

The question being taken on the amendment of Mr. Squires, the Convention divided, and by a vote of 29 ayes and 49 noes the amendment was rejected.

Mr. ELDREDGE. Mr. President, I move to strike out all of section 3 after the word "election," in line 3. It is only a repetition, I think, of what is already expressed in this section.

Mr. THURMAN. I would like to ask if that would not prohibit arresting a man on election day, no matter where he was, whether he was at the election or not?

Mr. BUYS. Mr. President, I certainly cannot see what object we would have in striking out that. All that we wish to bar people from being arrested for is to save them from losing their votes, and I cannot see why we should strike

that out and prohibit arresting a person anywhere, whether he was going to the polls or whether he was coming from them, or whether he had voted or whether he was going to vote. I think the section is right just as it is, and I cannot see any object in striking out that portion.

The amendment was rejected.

Section 4 was read.

Mr. VAN HORNE. Mr. President, it seems to me that it is a very queer provision. Suppose the government should deem it necessary to have the militia to quell a disturbance at the polls, a man could not be called on on the day of election to serve in the militia. I move to strike out the section.

The amendment was rejected.

Section 5 was read.

Mr. PAGE. Mr. President, I move to strike out that section.

Mr. VARIAN. The section was stricken out in the committee of the whole.

The PRESIDENT. It was not stricken out. The final declaration is that it was reinstated.

Mr. JAMES. Mr. President, then I renew my motion to strike out the section.

Mr. ANDERSON. Mr. President, I hope this motion will not prevail of striking this section out.

I think this provision is necessary. If we don't have this provision, any persons might vote who were not citizens, that is, the Legislature might pass laws allowing persons to vote who had not taken out, for instance, their first papers. I think it should be in there.

The question being taken on the motion to strike out section 5, the Convention divided, and by a vote of 38 ayes to 44 noes, the motion was rejected.

Sections 6 and 7 were read.

Mr. CRANE. Mr. President, I move to strike out, in line 3, the words "or his absence." A man might be called from his home—difficulties might arise at any time, as to how long it would be nec-

essary to be absent for him to lose his right to the franchise. Temporary absence might be a month, six months or six years.

Mr. VARIAN. Mr. President, the view I take of it is this, this section is unnecessary in all its particulars. The law has always been as I understand it, that absence from a state, whether it be short or lengthy, does not apply to a man's residence. Absence on business of the United States or state, does not deprive a man of his residence. The question of residence, inhabitancy, etc., is determined by the intention. A man might hold a residence in Utah here for years and be abroad for most of the time. This is simply a restatement of what the law is. I move to strike out the entire section.

The motion was agreed to.

Mr. Christiansen was excused for the rest of the morning session.

Section 8 was read.

Mr. RYAN. Mr. President, I move to strike out section 8. It refers back to section 2. I think when the right of suffrage is once established, it should always remain on all subjects, and should be the right of the poor as well as the right of the rich in voting indebtedness, or on any other question, and that is my reason for being opposed to that section. And I will say here that I might owe an apology. I did not mean any criticism, I recognize the great ability of the members of the Convention, but in my question to Mr. Eichnor, a while ago, I simply meant to illustrate the insignificance of one person as a unit of a community, and not as a criticism of the members of the Convention. I don't think this section has any place in the Constitution. As I said, when you established a person's right to vote—a right to exercise the franchise, he should be left to exercise it on all occasions.

Mr. WELLS. Mr. President, I desire to call the gentleman's attention to the fact that in the bill of rights a pro-

vision was inserted, "no property qualification shall ever be required of any person to vote or hold office, except as provided in this Constitution." And this is the provision referred to. If this is stricken out there will be no provision anywhere. You will have to strike out the other if you strike this out.

Mr. RYAN. Mr. President, that is exactly what I would like to see done. I think the right to vote on all occasions should be the right of citizens after once being admitted to the right of suffrage.

Mr. CREER. Mr. President, I would like to ask the gentleman a question. I understand you take the negative position. That is, that no person who may be ever so poor will be deprived of voting; but what about persons in the school district, or in a city even, where they were voting upon bonds? Now, would it not be proper that the Legislature should provide that they may have an opportunity of voting under property qualifications on a special tax or for bonded indebtedness?

Mr. RYAN. I don't know that I caught all the gentleman said, but I think I have the substance of it. I do not hear very well. I don't see any reason why the man without any property or a little property should not have the same right to vote on school questions and the matter of public indebtedness, just as well as the other man; it has been my experience that the vicious votes do not always come from the poor. They often come from the rich. I would not exclude a man from the right of franchise on any question after once giving him the right, and with that view I tried to amend section 2. I think if you guard the right at its inception that you would be right all through.

Mr. SQUIRES. Mr. President, I am in favor of this section just as it stands, and for this reason above all others:

The experience that Salt Lake County has had on the subject of voting bonds for the county. They have made three or four trials. In the first place, before we had indebtedness it was proposed here to bond the county for the purpose of putting up this building, and making other public improvements, and the vote was a general vote, and it was voted down. The county court, however, found that under the law they could go on and create this indebtedness, which they proceeded to do, and they were obliged, doing it in that way to have it cost the county a higher rate of interest than would have been the case had the bond been voted. Now, we come up to the time when the last movement was made for the purpose of taking up these outstanding warrants, which were bearing interest at eight per cent, and funding them in a five per cent bond, saving to the taxpayers three per cent on the indebtedness. The vote was general, and it was voted down. I don't believe any gentleman who is present here has any idea that if the taxpayers alone had been interested in that loan, and they alone had had the vote, that they would not have voted to save themselves three per cent interest of their indebtedness. Of course, the man who has not the property, has not the same interest in the matter as the taxpayer has, and I believe that in all questions where a special tax is to be levied for a special purpose the taxpayer alone—the man who has got to put up the money, should have a voice in the matter, whether it should go or not. I am in favor of the section just as it stands.

Mr. THORESON. Mr. President, I agree with the gentleman, I think the section should be retained just as it is. The bill of rights refers to this subject, that except creating indebtedness or levying special taxes, no property qualifications shall be required. In the article submitted on taxation and public debt we provide also that the electors

that are taxpayers shall have the right to decide whether or not the county, the State, or municipalities within it, shall have a right to vote beyond a certain limit in levying taxes or creating indebtedness, and I think of this subject, the taxpayer, the person who is liable for the debt, should be the person to decide by his vote whether or not such debt should be created. I believe in persons paying taxes being properly represented, but I don't believe that those that are not taxed should represent those that are in such matters as pertain to their property and the levying of indebtedness for taxes upon them. I think the section should remain just as it stands.

Mr. VARIAN. Mr. President, I am in favor of the principle of the section, and in offering to change it, I do so simply to have it in form with the context of the section. I offer this amendment for, or substitute for it: "The Legislature may provide property qualifications for electors voting at elections levying a special tax or creating indebtedness." As the section now stands, it is a negative form, and it is incongruous and inharmonious as a matter of construction, if nothing more, with the preceding sections. As for instance, section 2 declares affirmatively the qualifications for electors, that every citizen of a certain age with specified residence shall be entitled to vote. Now, if you are going to modify that, it seems to me it ought to be in an affirmative form and not in this negative way. The intention of course is that the reading of this should be made affirmative. The intention is that the Legislature may prescribe property qualifications in certain kinds of elections or for certain elections. Now, by changing it, it seems to me that you will correct any incongruity. I call attention also to "or hold office" in that section. It does not seem to have much meaning. There is some obscurity or doubt in this section as it stands. It does not read just right. The house

will understand, of course, from my amendment that, I am in favor of this proposition, only I want it put in a little different shape.

Mr. THURMAN. Mr. President, I think there is a great deal of force in the idea advanced by the gentleman from Juab, at least so far as the phrase "creating indebtedness" is concerned. Now, I think, to levy a special tax the man of property to-day, who has to pay that tax, ought to declare whether or not the tax shall be levied by his vote and nobody else, but when you come to creating indebtedness to be paid twenty-five or fifty years hence, the young man of to-day, just entering upon manhood, without any taxable property whatever, will have to pay that debt. The bona fide resident, whether he has any property or not when we come to creating a debt to be paid a generation hence, it seems to me there is an injustice in saying that, because he does not happen to-day to be a taxpayer he shall not vote upon a matter that will prove of vital concern to himself, and the very men to-day who have the property, and who would be permitted to vote, may not have a dollar's worth when that debt is to be paid, and the man that we exclude to-day will probably be the man that will have to pay the debt, or pay his share of it.

Now, a special tax which means a tax for this year, is all right. A man of property would be sufficiently guarded, if he alone has the right to vote on a levy of a special tax.

Mr. LOW (Cache). Mr. President, I understand from the argument presented by the gentleman from Salt Lake, Mr. Varian, that he desires to change this from negative to affirmative, but by scrutinizing the substitute, which he read, I find it also negatives a sentiment which is contained in this section 8 entirely, and that is the office holding qualification is omitted entirely in the substitute, as presented, and that is why I shall vote against the substitute

and support the section as it now stands.

Mr. VARIAN. If the gentleman, before he takes his seat, will tell me what effect he can give the words "holding any office," if they have any effect—what effect they have? What does that mean?

Mr. LOW (Cache). As I view it, section 8 provides as follows:

(Reads.)

Mr. VARIAN. What meaning is to be given to the words "or hold office." In other words, how can an officeholder settle the question in a vote to levy a special tax or create an indebtedness? What has an office holder to do with that?

Mr. LOW (Cache). I understand the proposition now.

Mr. VARIAN. There was nothing lurking in leaving it out. I left it out because I couldn't see any possible effect of it.

Mr. VAN HORNE. I move to amend the substitute offered by Mr. Varian by striking out the words "or creating indebtedness."

Mr. VARIAN. I am opposed to that. While I am willing to admit there is some force in the suggestions made by the gentleman from Utah, yet, after all, you cannot deal with every detail in a great question like this. And it is true that as a whole the mass of voters everywhere who are not property holders, are not apt as a rule to give the proper consideration to questions of this kind as they would if they had a stake in the country.

Now, when you undertake to create a public indebtedness, state, county or municipal, you are practically putting a mortgage upon the property of the people. It is true that in most instances payment of that mortgage will not be had for a number of years, but who are the people at the time that have the general control, and ought to have the control of the administering of public revenue for the safety of the commun-

ity? The majority of those who pay taxes as a rule.

Now, this principle involved in this section, it seems to me, is a good one, whether you levy a special tax or whether you authorize the issuing of bonds to create an indebtedness. The reason for it is to be determined, and should be determined by those who at the time are administering the affairs of the commonwealth. I am speaking of the financial affairs, and we all know how easy for persons who have no interest themselves for the time being, whatever they may possibly have in 50 years from now, in the financial affairs of the community in which they live—how easy it is for them to vote away other people's money, or to vote for the purpose of creating an indebtedness. They don't care. It is not brought home to them. I take the position that in voting to create indebtedness which those who come after you have to pay, you ought to be just as careful, just as circumspect, and act just as honestly and conscientiously in it as if you had to pay it yourself, and expect to pay it yourself with your property and that of your neighbor. Now, I do not agree with my friend from Salt Lake that the bond elections here are voted down by persons non-taxpayers. I think the taxpayers voted it down. They understood perfectly well that this pretense of eight per cent interest was all pretense. It wasn't legal. It never had any existence in law, and hasn't now. It seems to me that you will emasculate this section of much of its force and vitality, if you strike out the words, "or creating indebtedness."

Mr. IVINS. Mr. President, it is not my intention to occupy the time of the Convention but a moment, and I would not do this if I were certain that this section were not interfered with, but the hasty action we took on section 7—and I think it is a very great mistake, and if I had voted for it, I would certainly move to re-consider it—prompts

me to say a word on section 8. It seems to me the section is all right just as it stands. It provides first this: (Reads.) We restrict the Legislature to that extent, and then we provide that laws may be passed by the Legislature governing the right to vote upon questions where the levying of special taxes is at stake. So that I don't see anything will be gained by adopting the substitute or by changing this section from its present form. The Legislature will then have power to provide property qualification in special elections where taxes providing for indebtedness will be created, and they will have no power to provide a property qualification in general elections. I think that ought to be restricted in general elections and I think this gives them all the power they need for special elections. Those words, "or hold office," I agree with the gentleman that they seem to be perhaps necessary. I don't think they do any harm there. My opinion is we will not better it.

Mr. VARIAN. Mr. President, the gentleman understands I am not attacking the principle of this section. I simply took the view to change it from the negative to the affirmative form—

Mr. IVINS. I call the gentleman's attention to this fact, that if his substitute shall be put in here, there will be nothing which prohibits the Legislature from providing property qualification in a general election. There will be no prohibitory clause in this Constitution. I don't want that stricken out.

Mr. VARIAN. If that were so, I would concede to your premise, but it is not so. I call your attention to the fact that this is an affirmative declaration of what the Legislature may do in accordance with the affirmative declaration of section 22 as to qualifications of the electors. Certainly the Legislature could not go any further than that.

Mr. IVINS. Well, perhaps they could

not. I am positive that they could not under section 8 as it stands, and it suits my mind better to leave it in that condition than it does to change it.

Mr. GOODWIN. Mr. President, I only want to say a word about this matter of a tax for creating indebtedness. There is a reason why that should be left that has not been stated that I have heard. There was a very strong following of that kind which says all taxes shall be levied on land. We don't know what fury will take possession of the people at some future time, and they might vote everyone who had a house and home out of that house and home. It is absolutely essential. It is simply a protection to those people who have a little property, and I hope whatever other change may be made in this article that that may be left as it is.

Mr. KIMBALL (Salt Lake). Mr. President, I happen to be a property owner here in Salt Lake County, and if taxes are increased any greater than what they are at the present time, I am satisfied it will pay me to sell out or close up my house and rent; and this indebtedness has been brought about by the promiscuous voting by unreasonable persons, I am satisfied, to a very great extent. I have figures here that were given to me yesterday by a man of authority on the subject, showing the indebtedness of Salt Lake City to be \$2,580,000, the county \$435,000, the school \$825,000, and of the Territory, \$700,000, making a total of \$4,540,000. I have not figured the interest on this, gentlemen and Mr. President, but it seems to me that future generations for forty years to come will be born in debt. The property value of this county and city shall not be able to pay off this indebtedness. I should certainly vote to leave this clause as it is.

Mr. KERR. Mr. President, section 4 of the bill of rights, beginning on line 16, provides, "No property qualification shall ever be required of any per-

son to vote or hold office, except as provided in this Constitution." The exception I take is that which is covered by the substitute offered by the gentleman from Salt Lake. I think the objection to the substitute of the gentleman from Washington is provided for in this section of the bill of rights.

The amendment offered by Mr. Van Horne was rejected.

The question being taken on the substitute offered by Mr. Varian, the Convention divided and by a vote of 37 ayes to 44 noes the substitute was rejected.

The PRESIDENT. The question now recurs on the striking out of the section as proposed by Mr. Ryan.

The motion was rejected.

Mr. BUTTON. Mr. President, I move to strike out of line 2 the words "or hold office."

The motion was rejected.

Mr. WELLS. Mr. President, I move to amend the section as follows: To strike out all after the word "except," in line 3, and insert the following, "that in elections levying a special tax for creating indebtedness, the Legislature may provide property qualifications for persons to vote." I do not think as it stands now it is sensible at all.

Mr. CANNON. Mr. President, in the article on revenue, taxation, and public debt, a provision is made for a property qualification in case of certain elections. I think the article as it now stands is all right. I do not see any objection to it. There is nothing that prohibits the Legislature from providing such qualifications as may be necessary. and it is in conformity with the usages of other states, particularly as our friend, Mr. Eichnor, would say, in Washington.

Mr. GOODWIN. Mr. President, I move that lines 3 and 4 be transposed and begin the section so that it will read this way:

Except in elections levying a special

tax or creating indebtedness, no property qualification shall ever be required for any person to vote or hold office.

The PRESIDENT. Is this an amendment to the gentleman's amendment?

Mr. GOODWIN. I beg pardon. I will withhold this.

The amendment offered by Mr. Wells was rejected.

Mr. GOODWIN. Mr. President, I move to amend the section as I stated.

Mr. EICHNOR. I would like to ask Judge Goodwin a question. Is not that the duty of the committee on compilation and arrangement to transpose as they may deem it necessary?

Mr. GOODWIN. I want to fix it here, because I know if it comes back from that committee it will take another hour and a half. That is all.

The amendment of Mr. Goodwin was agreed to.

Mr. Partridge was excused from the remainder of the day's session.

Section 9 was read.

Mr. SQUIRES. Mr. President, I move that we take a recess until 2 o'clock.

The question being on the motion for recess, the Convention divided, and by a vote of 34 ayes and 38 noes, the motion was rejected.

Section 14 was then read as follows:

After the adoption of this Constitution, all general elections, except for municipal, school and judicial officers, shall be held on the Tuesday next following the first Monday in November of each even year. Special elections may be held as provided by law. The terms of all officers elected at any general election shall commence on the first Monday in January next following the date of their election. Municipal, judicial, and school officers shall not be elected on any day when other officers are elected, but the time of their election shall be as provided by law.

Mr. ALLEN. Mr. President, I suppose that the intention is here to hold the election for school officers and judicial officers at the same time. Now, the intention of the people generally—the Legislature, has been to have school elections non-partisan. Of course we

would all like to have them. If they should be at the same time, it would be impossible to have them non-partisan, because I do not think we could have judicial officers elected in a non-partisan manner. Therefore, it would be a detriment to the school election. The gentleman from Salt Lake the other day said it would be a big expense on the Territory for special elections. You go to the people and tell them you would like to have a judicial officer elected in a non-partisan manner, they will say all very well; but if you tell them it will cost so many thousand dollars to do so, they will say, "Oh, well, boys, let us have it all together." Therefore I move you to strike out the word judicial in the 4th line, also where it appears on page 4 in line 10, so that it will read as follows:

"Except for municipal and school officers, shall be held on the Tuesday next following the first Monday in November of each year." Also line ten will read, "Municipal and school officers."

Mr. EICHNOR. Mr. President, before the question is put, I would like to ask the chairman of the committee on elections a question. Mr. Chidester, is the idea of section 14 that we should elect State officers every two years?

Mr. CHIDESTER. Well, I presume that has been the practice and would likely be remedied by the committee on schedule, I should think. I am not certain about that. But some other committee will likely regulate that.

Mr. EICHNOR. The executive department may have to be elected for four years, and there will be a conflict. This is 1895, and if we elect our State officers this year, we would have to elect State officers next year—1896.

Mr. GOODWIN. Mr. Eichnor, I want to suggest that there will be some State officers to elect every two years, and there will have to be a member of Congress every two years.

Mr. ROBERTS. I suggest that also

members of the Legislature are to be elected every two years.

Mr. EICHNOR. I believe Mr. Thurman has an amendment to it.

Mr. THURMAN. Mr. President, I think there is something in the point raised by the gentleman. I had thought about it before. This says "all general elections for State officers," etc., shall be held "each even year." I think that means that all of those officers must be elected in the even years. It is a little awkward to make the amendment, but I would move to strike out "each even year," and insert in the place of it "the year, in which the election for such officers is held." That will leave the Constitution in some other parts to fix the times and terms of officers, and this will comply with every case.

Mr. EICHNOR. I second Mr. Thurman's amendment.

Mr. BUTTON. Mr. President, if they are going to amend this section, I move we take a recess until 2 o'clock.

The motion was agreed to, and the Convention then took a recess until 2 o'clock p. m.

AFTERNOON SESSION.

The Convention was called to order at 2 o'clock p. m. by President Smith.

The PRESIDENT. Gentlemen, section 14 of the article on elections and rights of suffrage is before the Convention.

Mr. ALLEN. Mr. President, the way section 14 now stands, school and judicial officers are not elected at the general elections. It appears from the way it is stated here that the judicial officers will probably be elected at the same time, or if not, that there will be an extra election on that account. As far as school officers are concerned, we would like to have them elected at a non-partisan election, if possible, but it appears to me to be impossible to carry on elections for judicial officers and have it non-partisan, and besides that, a special election for judicial officers would create

expense that I think the people would not like. Therefore, I would move to amend section 14 by striking out the word "judicial," in line 4, and placing the word "and" just before the word "school," in line 4, and by placing the word "and" after "municipal," striking out the word "judicial" in line 10, so that the section would read as follows:

After the adoption of this Constitution all general elections, except for municipal and school officers, shall be held on the Tuesday next following the first Monday in November of each even year. Special elections may be held as provided by law. The terms of all officers elected at any general election shall commence on the first Monday in January next following the date of their election. Municipal and school officers shall not be elected on any day when other officers are elected, but the time of their election shall be as provided by law.

Mr. RICKS. Mr. President, is it still open to any further amendments?

The PRESIDENT. There have been several suggestions in the form of amendments. Mr. Thurman had an amendment pending when we adjourned, that has gone from my mind.

Mr. RICKS. It seems to me it is a very difficult thing to do anything with that section at this state of the proceedings, and I move to strike out the entire section and leave the matter to the schedule committee to adjust later.

Mr. VARIAN. I second the motion.

The PRESIDENT. Mr. Thurman, did you intend to present an amendment?

Mr. THURMAN. Yes, sir; I am writing it now.

The PRESIDENT. Yours would be out of order at present, Mr. Ricks.

Mr. Thurman proposed the following amendment:

Strike out the words "each even year," in line 6, and insert in lieu thereof the words, "the year in which the election is held."

Mr. EICHNOR. I second the amendment.

Mr. CANNON. Mr. President, I arise to a point of order. The point of order is that this amendment that is proposed is not an amendment to the amendment, and we should dispose of one amendment before the house first.

The PRESIDENT. I had it in mind that Mr. Thurman's amendment was first. The record shows that Mr. Allen made the first amendment. The secretary informs me that Mr. Thurman's is the only one on the records here.

Mr. ALLEN. I moved to amend first.

Mr. VARIAN. Mr. President—

Mr. CANNON. I arise to a point of order.

Mr. VARIAN. I would like to say it does not make any difference which one we vote on first. The amendments are not germane to each other.

The PRESIDENT. The question before the house will be upon Mr. Thurman's motion.

Mr. CRANE. Mr. President, is a substitute in order for all the amendments? I have a substitute that I would like to offer.

The substitute offered by Mr. Crane was read as follows:

After the adoption of this Constitution all general elections for State, district, county, precinct, municipal, school and judicial officers shall be held on the Tuesday next following the first Monday in November of the year in which the election is held. Special elections may be held as provided by law. The terms of all officers elected at any general election shall commence on the first Monday in January next following the date of their election.

The Legislature may provide for separate elections for municipal and school officers.

Mr. CRANE. Mr. President, my object in this is to do away with so many elections that would otherwise be held in the State. With the exception of the election to be held the coming fall, there would be no elections held in this State once in two years. If we elect the judges of a supreme court and the judicial officers of a Territory every other year, the State will be put to an expense

of probably forty or forty-five or fifty thousand dollars each year for elections that can just as well be held when the State officers are elected as the year next following that. It is for the sake of economy that I introduced that substitute.

Mr. EICHNOR. I would like to ask Mr. Crane a question. I see your substitute has the same expression that elections shall be held on the Tuesday next following the first Monday in November of each even year. Now, 1895 is an odd year. Do you intend they shall elect State officers in 1896 and 1898?

Mr. CRANE. No, sir. This year can be provided for in the schedule. This will be a special election this year. In the schedule an article can be introduced that State officers can be elected this year to remain in office either one year or three.

Mr. EICHNOR. Another question. "Each even year," when will that be?

Mr. CRANE. That will be 1896, 1898, and so on.

Mr. EICHNOR. Do you want the State officers elected every two years?

Mr. CRANE. Every two years or every four years. That can be altered by the schedule.

Mr. EICHNOR. I would like to ask Mr. Crane whether he will accept the amendment offered by Mr. Thurman, and embody it instead of "each even year," to have it read "the year in which the election was held"?

Mr. CRANE. Yes, I will accept that amendment of Mr. Thurman.

Mr. THURMAN. I would like to ask the gentleman, Mr. Crane, if you have any particular reason for naming all of these officers? Haven't you named all that can possibly be elected?

Mr. CRANE. I tried to.

Mr. THURMAN. Why not say, "all the officers made elective by this Constitution or the laws" instead of naming everything you can think of?

Mr. CRANE. Well, I wanted to put them in there so that there would be no

mistake. As there seems to be a feeling that we should elect the judicial officers of the State in a different year from what the State officers are elected, my idea was to put them all in one election, and then give the people a rest for two years—have one year when there was no election held in the State. If you elect the school officers and the judicial officers every two years, and the State officers every two years, why the Territory would be put to an expense the coming year at least of forty thousand dollars. If there is a new registration taking place every year it will be a still further expense to the State, and my impression is that these officers can be elected just as well at one time as another.

Mr. THURMAN. Mr. President, of course I am not wedded to this section as it stands. It is a matter that a great deal of consideration was given to in the committee on elections, and we adopted it as it stands. The feeling of that committee was unanimous that at least school elections should be separated from the other elections, and that inasmuch as school elections would be separate anyway, with the same expense, or with additional expense at least, judicial officers could be elected at the same time. Now, it was suggested that there need not be a new registration, but the election could be held something as our school elections are held now, within a short time after the general election, so that the registration list would answer for the judicial and school election. I would not myself be in favor of going to the expense of new registration, just for the sake of trying to make these elections non-partisan, but if it does not require a new registration, I am in favor of having a different election. I do not believe that the election of school trustees, school county superintendents, and the superintendent of public instruction, ought to be on the same day when the Legislature is elected.

Mr. CRANE. May I ask the gentleman a question. Why do you object to that?

Mr. THURMAN. Because I am satisfied that we will act with more coolness and fairness, and a disposition to get the best man, regardless of his politics. I don't believe in carrying politics into our schools. I don't believe they have any just place in our municipal elections, and I know they have none in the judiciary—ought to have no place whatever. I do not say—

Mr. CRANE. Let me ask you another question. You will admit that politics has been carried heretofore into our school affairs, as well as into our judicial affairs, and always will be?

Mr. THURMAN. No, I do not admit that—I will admit that if your amendment prevails, it always will be, and that is just what I would like to see defeated.

Mr. CHIDESTER. May I ask the gentleman a question? In your opinion, Mr. Thurman, in electing the judicial officers as mentioned in this section, in connection with school officers, would not that be just as apt to make it partisan?

Mr. THURMAN. I don't think so, but if so, then I say put the judicial officers to the general officers of the State, because I certainly want to keep politics, if I can, out of the schools. I have seen this question of politics carried in the schools so far that it got right down to the teacher, and the question arose, "what is the politics of that teacher?" I say, gentlemen, when it comes to that it is a shame. I will admit that is not a perfect scheme by any means, but it has a tendency in that direction. Why, down here in our county, after the general election last fall, the two parties had no trouble to agree on men to put up as candidates of the school—absolutely no trouble at all. The election was over. The intense party feeling had subsided.

Men came to look upon things for the general good of the community, regardless of politics. They said, "now who will we have for our school board in Provo?" That was only one instance. We agreed upon our men, we put them up and the two parties voted for them, and politics, never entered into the question at all. I say, that we can do that if we would try, but gentlemen we cannot do it on the general election day, no matter how hard you try. We can do it if we will separate those days.

Mr. FARR. Mr. President, it is evident that we ought to have an eye now under our laws to the saving all the expense we can, and, to me, I have not seen or heard any valid reason advanced here why we should separate the times of electing those different officers. I never claimed to be much of a politician. But I am more of the policy man than the politician, and I am more for the man that is capable of filling the office than I am for anything else. That has always been my policy. I have not been able to see anything yet to hinder a man from voting at any general election for the man he wants, and the man that gets the highest number of votes is the person declared elected, or should be. And why should we argue the point of politics? What has it to do with it? Vote for the men we want, irrespective of politics. I cannot see any propriety of bringing any politics into this at all. I don't hear any argument in favor of it.

Mr. ROBERTS. Mr. President, if this question had come up before we adjourned this morning, I think very likely I would have voted to have had one general election cover all the cases that are enumerated in the substitute offered by the gentleman from Millard, but after devoting some consideration to that subject, during the intermission, I have come to the conclusion, sir, that I would prefer to see some of these elections separated. And one of my reasons for wishing that so is this: That if you

have municipal elections and school elections at the same time that we have our general election for representative to Congress, for members of the Legislature, you will have the local issues, and fitness of these men for positions in municipal and school elections, so overshadowed by the general topics that up in a general election, that proper consideration for the local officers to be elected and the fitness of the candidates would be entirely overlooked. Another thing that occurs to me as being against this proposition is that you fix by this proposition in the substitute, all the municipal elections and all the school elections at two years. The term of office in all those cases must be two years. Now, I take it that in the municipal government, perhaps that might not always be desirable, and that the people of the municipality would prefer to have annual elections every two years. And in consequence of the fact that these local questions affecting these school and municipal officers would be crowded out of proper consideration by the general topics considered in the election—and for that reason I would prefer to see not only judicial elections, but elections for school officers, and also municipal elections held on a different date, at a different time than our general elections. I therefore trust that the substitute will not prevail in those particulars at least.

Mr. BUYS. Mr. President, I certainly am not in favor of the substitute. So far as school elections are concerned, we do not want to have our school elections mixed up with other elections, for several reasons—the reason set forth by the gentleman from Utah and also from Davis. And there is another thing that would interfere in the election of school officers. Our school year ends on the 30th of June at the present time, and it is certainly the best time that it could end, because the school commences in the fall and there is a continuous term

from then until the next year. That is our school year, and the summer time is the best time for a vacation. Now, this would provide the school officers should be elected in the fall, and this was tried by the Legislature. The Legislature established that, and it was abandoned, and for very good reasons. The school officers would be elected in the fall. They come right into the middle of the school year—the middle of the term—and take hold of the school business. They don't know what arrangements the previous trustees have made, and if they do know they don't take much notice of the arrangements that have been made by the previous trustees, and it interferes with the school business. It interferes with the school system and the interest of our school, and I think that we should have the school officers elected in July and not in November. And we should leave that to the Legislature so that the Legislature can regulate it, and if they see fit to change the school system, then they might possibly change the election, but the election of school officers should be made at a time to fit the school system. And I certainly hope that the feelings we had here on our general election—and I have found invariably that this feeling is growing. I dislike seeing it in our school affairs, but we should study school economy and these elections should all take place at one time and not any oftener than once in two years.

Mr. THORESON. Mr. President, is an amendment now in order to the substitute?

The PRESIDENT. Yes.

Mr. SQUIRES. Mr. President, I would like to inquire how many amendments are before us.

Mr. EVANS (Utah). Mr. President, I arise to a point of order, that the substitute itself is nothing more or less than an amendment. It ought not to have been entertained, but I did not care to

take up the time of the Convention, but now I shall have to insist on the rule.

The PRESIDENT. I think the point of order is well taken.

Mr. VARIAN. Mr. President, I would like to know where we stand: I understand the rule to be that we have got to perfect this substitute if it is going to be voted in, before we vote on it. If the substitute is not in order, a vote may be taken on the other amendments until the substitute shall be in order, because I have an amendment to offer to that substitute.

The PRESIDENT. I think then we had better clear up some of these amendments.

The question then will be upon the amendment of Mr. Thurman.

Mr. CRANE. I would like the permission of the house to amend the substitute and add a few words.

The PRESIDENT. We will consider these other propositions first.

Mr. Thurman's amendment was then read.

Mr. EICHNOR. Mr. President, Mr. Crane accepted Mr. Thurman's amendment, and consequently it is merged into Mr. Crane's substitute.

Mr. THURMAN. Hardly. Mr. Crane offered an entirely different proposition, but on that particular part he was willing to accept the same language which I offered to the section, and the section as it stands here, in order that you may understand it, I will read it: "After the adoption of this Constitution all general elections for State, county, district, precinct, and municipal officers, except school and judicial officers, shall be held on the Tuesday next following the first Monday in November of the year in which the election is held." No matter whether they are elected for four years, six years or two years, or what time, the year in which the election is held for these officers, which will be on Tuesday after the first Monday in November.

The amendment of Mr. Thurman was agreed to.

The PRESIDENT. Now, the question recurs on the amendment of Mr. Allen to this section.

Mr. Allen's proposed amendment was read by the secretary.

Mr. VARIAN. Mr. President, I call for a division on that. It is impossible to put it all together. It is an amendment in two or three different lines.

The PRESIDENT. To strike out the word judicial, in line four, and place the word "and" before school, in line four.

The amendment was rejected.

The PRESIDENT. The next part of the proposed amendment is to strike out the word "judicial," in line ten.

The amendment was rejected.

The PRESIDENT. Now comes the substitute of Mr. Crane.

Mr. THORESEN. I now ask that my amendment to that substitute be read.

(The president here called Mr. Varian to the chair.)

The proposed amendment of Mr. Crane was read.

Mr. JAMES. Mr. President, the more I hear said and the more I hear read, the more I am in favor of the amendment of the gentleman from Millard County. I have had some observation regarding the elections in my time, and I say that any country that can avoid elections every alternate year is very fortunate. It is not only the expense of the election, but it is the distracting of our business affairs that elections cause in a community. It takes men away from their business. It engenders bad feelings, and it accomplishes nothing. Now, some of our speakers on the floor have enlarged on the propriety of keeping politics out of the judiciary and school affairs. Now, I agree with those gentlemen; that is true. But why not let us abolish politics from everything? Let us not have any more. Let us not elect any governors or any sheriffs, nor any mayors, nor any other officers

with politics. Let us abolish the whole business. Now, gentlemen, it is mere moonshine to talk such stuff. The government of the United States is controlled by two great parties. Sometimes we have a little side issue, but the history is it is two dominant parties that control this country, and I don't believe that this country would be one-half as great to-day as it is, had it not been for that system of government of this nation. It is one party watching the other. It is one party holding in check the other. That is the reason or the secret of the enforcement of nominating good officers, and of officers performing their duty.

The PRESIDENT pro tem. Mr. James, will you suspend a moment until I can get the whole question before the house? The question is on the amendment offered by Mr. Thoreson to strike out, where it shall occur in the substitute offered by Mr. Crane, the words "school and municipal," and add to the substitute "provided, that school and municipal officers shall not be elected on any day when other officers are elected, but the time of their election shall be provided by law."

The question will be on the amendment.

Mr. JAMES. Mr. President, I am opposed to the amendment. If it is the proper thing to do, then this matter should be left to the Legislature. Now, what is the use of encumbering our Constitution with a whole lot of laws that are of no avail and we cannot get rid of them? Now, if it is absolutely true, as has been argued on this floor, that you can separate these elections and prevent politics going into them, maybe that may do some good, but I claim it cannot be done. We have had lessons right here before our eyes—examples which were given to you here last November. We saw just as much politics in a bond election or in school election for trustees as we saw almost on the day that we elected our delegate to Congress. If

you were around the polls in the fifth precinct, I say to you, gentlemen, you did. You saw the teams, the workers, the whole paraphernalia. that is brought to bear in any general election, there at that school election; and you cannot do it. But if it is true that you can do it, allow the Legislature to do it, so that they can do it specifically and in detail and in a way that they are not bound hand and foot, so that they have got to stick to some proposition whether successful or not. Consequently I am opposed to that.

Mr. HEYBOURNE. Mr. President, I am not in favor of the substitute offered by the honorable gentleman from Millard. I am rather disposed to favor the amendment that was offered by the gentleman on my right. I am opposed, Mr. President and gentlemen, to mixing political matters and feelings with our educational interests. I think that this should be avoided if possible, while at the same time I desire to study economy reasonably; but if there is any institution or interest in this Territory that we want to guard well it is that of educational matters. And while I understand the school law at present is working reasonably well in our Territory, I understand at the same time that the school year ends in the summer season, sometime in June. I believe it is nothing but right and proper that we should adopt the amendment to the substitute leaving out our educational interest—I am not so particular with regard to the municipal affairs—and then allow the Legislature to make the necessary provisions for the holding of school elections. Therefore, I shall vote for the amendment to the substitute.

Mr. EVANS (Utah). Mr. President, I am opposed to the amendment to the substitute. I think that it ought to be left as has been suggested by the gentleman from Iron County, to the Legislature, but I take it that the substitute that was offered will reach that provis-

ion. As I understand it, it provides that the Legislature may provide by law for the holding of school elections as well as municipal elections, upon some other time than that of the general election. So far as I am concerned individually, I would much prefer that it have the municipal elections in it. I believe that it is one of the elections that has a tendency to engender more bitter feelings, that it is one of the elections that is fought harder than any election that is held in the Territory. I think that in the interest of economy—in business, in the interest of good feeling among our people, that our elections should come at the same time except as to school elections, and the substitute provides that the Legislature may regulate that. Now, sir, the expense of our school elections is very nominal, each district providing its own regulations. Under the present law the trustees act as the judges of election. It is something that is confined to each locality. It will not be necessary to stump this Territory from one end to the other, thereby creating great expense, but I am certainly in favor of holding our elections upon the self-same day, beginning with the head of the State, down to the municipal, including the precincts, and all for the reason that has been stated by the other gentlemen, in the interest of economy.

Let the people rest at least one year, and not engender the feeling appurtenant to our elections since our division upon party lines; and I am certainly in favor of this substitute. I hope it shall prevail. I hope the amendment will be defeated and that we shall incorporate right in the Constitution that article providing for the election of all the various organizations of this new State, upon the self-same day, leaving the question of schools and municipalities to the Legislature, for the reason that I believe their good wisdom and their good judgment having come from among the people, will suggest to them that that

of the cities may be incorporated in the general election.

Mr. THORESON. Mr. President, I believe that my amendment is necessary in order to carry out the ideas that the gentleman has to the substitute as originally offered.

Mr. Crane's substitute was then read by request.

Mr. CRANE. Mr. President, I ask unanimous consent for the words "municipal and school" to be stricken out of my substitute.

Mr. THORESON. My amendment covers that ground. I wish to explain that the substitute just read is not the original substitute, but it has been amended by the gentleman since I offered my amendment to his substitute.

The PRESIDENT pro tem. The gentleman from Millard asked leave to amend his substitute some moments ago.

Mr. CRANE. I accept Mr. Thoreson's amendment, Mr. President.

Mr. EVANS (Weber.) Oh, no.

Mr. EICHNOR. Mr. President, the way I understand the amendment of Mr. Thoreson, that makes it imperative that municipal and school elections must be held on a separate day. The way I understand the substitute of Mr. Crane is, the Legislature may provide for a separate election of municipal and school officers.

Mr. CRANE. That is the way I understand Mr. Thoreson's. I would like to hear the amendment read.

Mr. Thoreson's amendment was read.

Mr. CHIDESTER. Mr. President, I would like to ask Mr. Crane a question. The substitute you offer now—if you understand that to provide that all the officers both school and municipal should be elected on the same day, while it may be provided that the school and municipal officers must be elected at the same day, is that it?

Mr. CRANE. The Legislature may provide different days if it sees proper

so to do. It puts it in the power of the Legislature entirely.

Mr. CANNON. Mr. President, are amendments still in order?

The PRESIDENT pro tem. One amendment is.

Mr. CANNON. I move that we strike out, commencing in the seventh line—

The PRESIDENT pro tem. Not an amendment to the section but an amendment to the substitute.

Mr. CANNON. I believe the language is the same, but I am not sure. The words, "the terms of all officers elected at any general election shall commence on the first Monday in January next, following the date of their election." I move that this provision be stricken out.

The PRESIDENT pro tem. Will the gentleman reduce it to writing? We cannot keep this at all correct unless you put it in writing. Send up your motion.

Mr. VAN HORNE. I second it.

Mr. EVANS (Utah). Might I ask Mr. Thoreson a question?

The PRESIDENT pro tem. One moment, if you please, until we get this.

Mr. CANNON. Mr. President, my reason for making this motion is that collectors in the various counties throughout the Territory assume the duties of their office about June or July. I think if you made it so that they are compelled to take their office on the first Monday in January, it would be very awkward. Taxes are not settled usually until about that time. I think it would be very awkward for the officer retiring to close up his books at that time. I think it can be still left to the Legislature. This is the reason I desire it stricken out.

Mr. THORESON. Mr. President, I believe the substitute of Mr. Crane, after adopting my amendment, leaves that out.

The PRESIDENT pro tem. The chair is of the opinion that Mr. Cannon's amendment is not an amendment to the section, but an amendment to the sub-

stitute, and the question will first recur therefore on Mr. Thoreson's amendment.

Mr. EVANS (Utah). Mr. President, I would like to ask Mr. Thoreson one question. Is it the intention of your amendment to provide that the Legislature must have the election for municipalities at a different time?

Mr. THORESON. Yes, sir; and school officers at another time.

Mr. EVANS (Weber). Mr. President, I am in favor of the substitute offered by the gentleman from Millard. I think we ought to hold our elections on the same day, except for school officers. If the substitute is adopted, I give notice that I shall offer an amendment to strike out the word "school" and have all other elections on the same day in order to save expense and give people a rest from political trouble.

The question being taken on the amendment offered by Mr. Thoreson, it was rejected.

The PRESIDENT pro tem. The question recurs upon the motion of Mr. Kimball.

Mr. KERR. Mr. President, the substitute offered by the gentleman from Millard was amended by—

The PRESIDENT pro tem. Mr. Thoreson's motion was lost.

Mr. KERR. Would that leave it optional with the Legislature as to whether school officers should be elected at the general election or not?

The PRESIDENT pro tem. If it is desired I will have it read or read it again, as it will be if this motion shall prevail.

Mr. Crane's proposed substitute was re-read.

Mr. KERR. I would like, Mr. President, to inquire if an amendment is still in order?

The PRESIDENT pro tem. An amendment to the amendment is in order. An amendment to the substitute can be reached after this motion is disposed of.

The question being taken on the motion of Mr. Cannon to amend the substitute the Convention divided, and the amendment was rejected.

The PRESIDENT pro tem. The question now recurs upon the substitute.

Mr. EVANS (Utah). Mr. President, I move that the word "municipal" be stricken out.

The PRESIDENT pro tem. The house has just refused to strike out the word "municipal" in a prior amendment.

Mr. GOODWIN. Mr. President, I move that the amendment to the substitute be laid on the table.

Mr. FARR. Mr. President, I have a substitute that I wish to present, and they might both be laid on the table at the same time.

The motion of Mr. Goodwin was rejected.

Mr. FARR. Mr. President, I have a substitute for the whole section. I think, if read, it would answer the whole thing.

Mr. Farr's proposed substitute was read as follows:

All general elections shall be held on Tuesday next following the first Monday in November of the year in which the election is held. Special elections shall be had as may be provided by law. The terms of all officers elected at any general election, shall commence on the first Monday on January next following the date of their election.

The PRESIDENT pro tem. The question recurs upon the substitute of Mr. Crane.

Mr. FARR. My purpose in offering that is this. We are not making any laws to take effect until after the Constitution is adopted. Consequently there is no use saying anything about that. The law cannot take effect until after the adoption of the Constitution, and we are not making the law for any other state, but this State.

Mr. SQUIRES. Mr. President, in view of the prevailing practice in the Territory of having the county collectors of taxes begin their terms of office on the

first of June of each year, I move to insert in that substitute of Mr. Crane these words, "except county collectors whose terms of office shall begin on the first day of June after the date of their election."

The PRESIDENT pro tem. Where would the gentleman insert that?

Mr. SQUIRES. In the second clause providing for the terms of office.

The PRESIDENT pro tem. I will state that this method of handing in amendments is liable to result in these statements of the propositions before the house. All amendments ought to refer with precision where they are designed to be incorporated, and the name of the mover ought to be attached, because it is impossible for the clerks to keep a correct record of it. We are in convention now, and there is a record to be kept of all of this. As a matter of necessity the chair will attempt to fix the place where this amendment shall be placed. After the word "officers" and before the word "shall," in line 4 of the amendment offered by the gentleman from Millard, insert "except county collectors whose terms of office shall begin as provided by law."

The amendment was rejected.

The PRESIDENT pro tem. The question now recurs upon the substitute of Mr. Crane.

Mr. BUYS. Mr. President, I move to strike out the word "school" in the 4th line, I think it is of the substitute.

The PRESIDENT pro tem. The house has already refused to strike out the word "school" on a prior vote.

Mr. HART. Not on this question. It was a different question. I beg the pardon of the chair for interrupting him. I have an amendment to offer to this section. I move to strike out the word "judicial"—I don't know the number of the line.

The PRESIDENT pro tem. It is on the 4th line.

Mr. HART. Strike out the word "judicial" in the 4th line, and insert it

in the 7th, making it possible for the Legislature to provide for a certain time for election for judicial officers as well as school and municipal.

The PRESIDENT pro tem. We will have to have it in writing. It is impossible to keep the record here at all unless you do. The question recurs upon the motion of Mr. Hart to strike out the word "judicial," in the 4th line, and insert the same after the word "municipal," in the last line of the section, so that, as proposed to be amended, the section would read, "After the adoption of this Constitution, all general elections for State, district, county, precinct, municipal, and school officers shall be held on the Tuesday following the first Monday in November of the year in which the election is held," and as inserted in the last line "the Legislature may provide for certain elections for municipal, judicial, and school officers."

Mr. HART. Mr. President, in view of the peculiar construction of the first part of that it will not be necessary to strike out the word "judicial" in the 4th line. I ask consent of the house to modify my amendment so as not to strike out the word "judicial," in the 4th line, but simply insert it in the last line.

The PRESIDENT pro tem. If there is no objection the chair will arrange the motion in that way.

The motion of Mr. Hart then is simply to insert the word "judicial" after "municipal," in the last line of the section.

Mr. CRANE. Mr. President, if this word "judicial" is stricken out it compels us to have a separate election throughout the entire State.

The PRESIDENT pro tem. There is no motion to strike out "judicial." The motion is to insert "judicial" in the last line.

Mr. CRANE. Well, it is the same thing. It provides for the general

election for a judicial officer throughout the State.

Mr. SQUIRES. Mr. President, I am opposed to this amendment for the reasons already given, that we should hold all these elections on one day and save expense to the State of a separate election, which would be absolutely necessary if the Legislature should provide for an election of the judiciary at a certain election. When a municipal election is called the expense would be on the municipality, and there would be only a few cities in the State where such an election would be necessary, but a judicial election will be an election for the whole State, and it puts an additional expense on the State for registration and everything of that sort.

Mr. GOODWIN. Mr. President, it seems to me the Legislature might be entrusted with that. There are a great many here who are opposed to having judges elected on the same days with other officers. The extra expense in that event will simply be the election judges' salaries for that day, because the same registration would be used in the general election, and the Legislature would take care of it. I think it is all right as it stands. I think that should be included with the municipal elections and school officers. Of course, there are some offices to trade on if they are all elected on the same day, but there is a feeling in the community that judges ought to be above having a scramble in their elections; that the very best man ought to be elected judge, no matter to what party he belongs, and, at least, that the people should not be distracted in judging whom to vote for for judge by the turmoil of a general election day. Perhaps there is nothing in it but sentiment, but it is just as safe to leave that to the Legislature as it is to make an ironclad rule that the Legislature cannot avoid if they wish. I hope the amendment will prevail, and leave the thing back the way it was in the beginning, except that instead of

being mandatory in the Constitution, it will be in the province of the Legislature to change it if they want to.

Mr. VAN HORNE. Mr. President, I am fully in sympathy with the substitute. I think that probably the whole section might well go out as being legislation, and that the whole matter could be safely entrusted to the Legislature, and I am surely opposed to the motion that we are sitting here as a perpetual legislature, which shall be for all time, as the people of Utah, and wherever we can consistently leave to the people, through their representatives elected, the ordinary matters of particular details, I am in favor of it, and for that reason, I am heartily in sympathy with the substitute.

Mr. PETERS. Mr. President, is another amendment in order now at this stage?

The PRESIDENT pro tem. There can hardly be an amendment to this section because it is simply to insert a word.

Mr. PETERS. Or a substitute?

The PRESIDENT pro tem. It will be in order after the motion is disposed of; there is already a substitute to be passed upon.

Are you ready for this question, to insert the word "judicial?"

The question being taken, the Convention divided and by a vote of 39 ayes to 41 noes, the amendment was rejected.

The PRESIDENT pro tem. The question now recurs upon the substitute offered by Mr. Crane.

Mr. PETERS. Mr. President, if it is in order now, I wish to offer my substitute.

The PRESIDENT pro tem. There are two substitutes then pending for the first section. I will have them both read.

The proposed substitute of Mr. Farr was read as follows:

All general elections shall be held on the Tuesday next following the first Monday in November of the year in

which the election is held. Special elections shall be held as provided by law. The terms of all general officers elected at any general election shall commence on the first Monday in January first following the date of their election.

The proposed substitute of Mr. Peters was read as follows:

After the adoption of this Constitution, all elections shall be held on the Tuesday next following the first Monday in November of each even year; provided, that the Legislature may provide for special elections for school officers.

The PRESIDENT pro tem. Neither of these substitutes are amendments to this. The question will first recur on the substitute offered by Mr. Crane.

Mr. BUYS. Mr. President, I certainly will have to vote against this substitute for the reason that "school" is in there, and the position we should be placed in if this should prevail with schools in there—as we have it now, the Legislature has provided for holding an election in July. After the adoption of this Constitution we must hold our election for school officers in November, and then the Legislature may meet and provide by law for holding an election in July again, and it will interfere with our school system, and I certainly cannot vote for the substitute with the word "school" in as it is now.

The question being taken on the adoption of the substitute offered by Mr. Crane, the Convention divided and by a vote of 36 ayes to 52 noes, the substitute was rejected.

The PRESIDENT pro tem. The question now recurs on the substitute offered by Mr. Farr.

Mr. FARR. Mr. President, I would just like to say a word on that. I am satisfied that every thing that has been spoken of here is embraced in this section, if they will examine carefully the phraseology of it. I am in favor of giving the Legislature the privilege of making laws for special things. I do not see that there is any use of lumbering up our Constitution with special laws, but leave that to the Legislature.

Mr. ELDREDGE. Mr. President, I have a substitute here that I would like to offer by consent of the delegates.

The PRESIDENT pro tem. It will be passed on after a vote on this, unless it is an amendment to this substitute. Is it a substitute for the entire section?

Mr. ELDREDGE. It is a substitute for the entire section.

The PRESIDENT pro tem. The chair will order it read after disposing of this.

Mr. BARNES. Mr. President, I also have a substitute for the entire section.

The PRESIDENT pro tem. We will dispose of it when we dispose of these.

Mr. SQUIRES. Mr. President, as we have been proceeding here these other substitutes have been read before action has been taken on the first one. In justice, I think these substitutes ought to be read, too—

The PRESIDENT pro tem. All the gentleman has to do is to call for the reading.

Mr. SQUIRES. I call for the reading of Mr. Eldredge's substitute.

Mr. BARNES. I desire to have mine read.

Mr. Strevell, by request, was excused indefinitely on account of illness.

Mr. Barnes' proposed substitute was read as follows:

All elections shall be held at such time as the Legislature may provide.

Mr. Eldredge's proposed substitute was read as follows:

All elections for State, district, county, precinct, municipal, school, and judicial officers shall be held on the Tuesday next following the first Monday in November of each even year. The terms of all officers elected at any general election shall commence as may be provided by law. The Legislature may provide for special elections.

The PRESIDENT pro tem. The question was upon Mr. Farr's substitute.

The substitute offered by Mr. Farr was rejected.

The PRESIDENT pro tem. The

question now recurs upon the substitute offered by Mr. Peters.

Mr. PETERS. There is an objection that I seek to remedy in this amendment, and that is the matter of the officers assuming their duties on the first day of January after their election. As the law stands at present, the collectors don't assume their duties until later in the year, but if this substitute is adopted you will find that the Legislature will have the sole power of fixing the time that every officer assumes his duty, and also the time that it expires. It simply provides that the election shall be held on the Tuesday after the first Monday. It fixes a uniform day for holding of elections, not general. You will notice the article as it now reads is that after the adoption of this Constitution all general elections for State—and so on, shall be held. This simply says that all elections, excepting school elections, shall be held on that day. It even provides that special elections shall be called on that day, although it affords an opportunity at least that they can be called on separate years, but on the day that the general election is held. It seems to me this would cover a great many objections that have been brought up during this discussion.

Mr. EVANS (Weber). I would ask the gentleman from Box Elder a question. Your substitute provides for special elections being held on the same day as general elections?

Mr. PETERS. It does not provide for special at all. The Legislature would naturally have that power. It simply provides that all elections shall be held on one day.

Mr. EVANS (Weber). That would require a special election to be held on that day also, would it not?

Mr. PETERS. Well, it is questionable. I think it would. It may not be the same year.

Mr. EVANS (Weber). The very ob-

ject of a special election is to fill some vacancy, is it not?

Mr. PETERS. Well I think that our Constitution provides that these vacancies may be filled by the executive.

Mr. EVANS (Weber). I think not until a special election can be held for that purpose.

The substitute of Mr. Peters was rejected.

The PRESIDENT pro tem. The question now recurs upon the substitute offered by Mr. Eldredge.

Mr. ELDREDGE. Mr. President, the object of this was to get all elections held on one day as has been stated here, in order to save the expense of an election each year. It will save us from going through a state of excitement and unnecessary expense for election, but it is left that the Legislature may provide for a time that the persons shall assume the duties of the office, so that it can be arranged that one class of officers may assume their duties on the first of January, or the collector may assume his duties on the first of June, and that school officers may assume theirs on the first day of July, just as it may be arranged and provided for by the Legislature. It is to be left exclusively within its power.

Mr. EICHNOR. Mr. Eldredge you have that phrase in there, "of each even year." Do you contemplate another election for State officers next year?

Mr. ELDREDGE. I contemplate that the general election shall be held on each even year, but not necessarily that an officer should only hold his term of office for two years. He may hold it for four or six.

Mr. EICHNOR. He would be elected a State officer this year, then, according to that substitute would he be elected again?

The PRESIDENT pro tem. I think it is better not to have colloquy of that kind. Let the gentleman propound his questions and take the answers. It is utterly impossible for anybody to un-

derstand what you say, and we cannot permit it. Let the gentleman propound his question and the answer be given, and stop with that.

Mr. EICHNOR. Do you intend by your substitute to hold an election this year for State officers?

Mr. ELDREDGE. I think an election shall be held this year.

Mr. EICHNOR. When is the next election to be held for governor?

Mr. ELDREDGE. Under this, it would have to be provided, it would be in any even year—whether we provide in the schedule it shall be next year or two years hence.

Mr. MALONEY. Mr. President, I call attention of the gentleman from Summit to the words, "each even year." That has been stricken out by Mr. Thurman's motion and there is inserted in lieu thereof, "the year the elections are held." Now, it strikes me these matters ought all to go out. It is a matter strictly legislative, and it ought to be postponed until the coming in of the report of the committee on schedule and future amendments.

Mr. Eldredge's proposed substitute was rejected.

The PRESIDENT pro tem. The question now recurs upon the substitute offered by Mr. Barnes.

Mr. PETERS. Mr. President, I move this section and all amendments be committed to the committee on schedule and future amendments.

The PRESIDENT pro tem. It takes the article with it.

Mr. THURMAN. Mr. President, I am opposed to recommitting the section. I see that this house is getting back just as fast as it can to accept this matter about as the committee on elections brought it in. They have voted down everything. I think they have voted now on about everything except that, and I think we ought to have a vote upon the question as it now stands—the printed report as amended this afternoon.

Mr. ANDERSON. Mr. President, would this motion to recommit take the entire article with it?

The PRESIDENT pro tem. Does the gentleman address the Convention or the chair?

Mr. ANDERSON. I am opposed to recommending this; I think we should settle it now.

The PRESIDENT pro tem. The chair is perfectly willing to answer the gentleman if the question is put to the chair.

Mr. CORAY. Mr. President, are substitutes still in order? [Laughter.]

The PRESIDENT pro tem. Not while this motion is pending.

The question being taken on the motion to recommit, the Convention divided and the motion was rejected.

The PRESIDENT pro tem. The question is now upon the adoption of the substitute offered by Mr. Barnes.

The substitute was rejected.

Mr. EVANS (Weber). Mr. President, I desire to read a substitute which I will offer and if I get a second to it, I will make a remark or two to explain it.

After the adoption of this Constitution, all general elections for State, district, county, precinct, municipal, school, and judicial officers shall be held on the Tuesday next following the first Monday in November of the year in which the election is held. Special elections may be held as provided by law. Until otherwise provided by law the terms of all officers elected at any general election shall commence on the first Monday in January next following the date of their election; provided, that the Legislature may provide for separate elections for judicial, school and municipal officers.

I desire to state in support of this substitute that it seems to me to meet the situation of the Convention. In the first place, objection was made by the gentleman from Salt Lake that the article as proposed and the substitutes would require the collector to assume the duties of this office on the first of January. This will be obviated by the

words, "unless the Legislature otherwise provide." No collector will be elected this fall. The Legislature can provide the method by which the collector can go out of office in June during its next session. All the elections are held together unless the Legislature provides that school elections and judicial elections and municipal be held at some time or another, but if it does not provide for that, then all these elections will be held on the same day. Now, it would seem to me that that meets the whole situation, and it is not changing the article very much either.

Mr. CANNON. Mr. President, I move to strike out the entire section. I am not particularly anxious to press this, since the substitute offered by the gentleman from Weber County. There is one thing I would like to ask him, whether it would not be just as well to leave this entire clause out—one providing for the time at which the officers shall assume the duties of their offices? It is purely legislative and if left out would be attended to by the Legislature anyway.

Mr. EVANS (Weber). Mr. President, I will answer that in this way. At this general election this fall we elect our State officers. It is impossible to ascertain when they shall enter upon the duties of their office, until after the Legislature meets. They should enter upon the duties of their office on the first day of January. That provides for that set of officers and makes it all right, and then the Legislature can provide when the terms of the officers may end and when the subsequent set of officers may enter upon the duties of their offices.

Mr. SQUIRES. Mr. President, I would like to ask the gentleman a question. Wouldn't the officers elected this fall—the State officers—take office as soon as the President's proclamation was issued?

Mr. EVANS (Weber). If we did not have any provision at all, you mean?

Mr. SQUIRES. Yes.

Mr. EVANS (Weber). Well, possibly that is true, but I will answer this, Mr. Squires, it would be a very peculiar thing, however, that the officers should take the oath of office immediately after their election. I think the Territorial officers ought to continue until after the first of January. It is only a little while anyway.

The PRESIDENT pro tem. The chair is of the opinion that the question recurs upon the motion to strike out.

Mr. CANNON. Mr. President, my reason for moving to strike out the entire section is that I think it will come better from the committee on schedule. I rather favor Mr. Evans's substitute, but I think it would be better to leave it until that committee reports.

Mr. HART. Mr. President, I was going to inquire if the motion of Mr. Cannon is not really included as a component part of the motion of Mr. Evans. His is a substitute which includes the motion to strike out section 14 and insert in place thereof the matter he has prepared.

The PRESIDENT pro tem. That is true, but if the house should adopt Mr. Evans's substitute then the motion would recur upon the motion to strike out. It would be in the position of undoing what it had done a moment before.

Mr. EICHNOR. Mr. President, I am opposed to the motion to strike out for the reason that the function of the committee on future amendments and schedule is not to provide for the terms of officers, but simply to provide that certain officers of the State may begin their terms of office before the day fixed in the Constitution. For instance, the question proposed by Mr. Squires—whether the governor and other State officers would not take their office before the first Monday in January. If the schedule provides for that contingency, they have the right to do so, but

not to fix the terms of all the officers in the State.

Mr. CRANE. Mr. President, are substitutes still in order?

The PRESIDENT pro tem. The chair will rule that where there are several substitutes like this pending, for the entire section, a motion to strike out, of necessity must be disposed of first, and then substitutes will be in order. I have two or three here.

Mr. CRANE. I have one that I think will meet all the requirements of the case.

The PRESIDENT pro tem. The chair does not doubt it. [Laughter]. But as a matter of parliamentary rule, I shall hold to the motion before the house—

Mr. HART. Would the ruling of the chair then be that the motion of Mr. Cannon, if defeated, would be equivalent to agreeing to retain the section as it now stands?

The PRESIDENT pro tem. Not at all. I should hold that a motion to strike out and insert was in order.

The motion of Mr. Cannon was rejected.

The PRESIDENT pro tem. The question now recurs upon the motion to strike out and insert the substitute offered by the gentleman from Weber, Mr. Evans.

Mr. GOODWIN. I would like to ask Mr. Evans a question for information. Suppose we elect in November. The proclamation of the President does not come until the 10th of January. When will those officers be given their offices? Under your amendment, as I understand it, they are to be seated on the first Monday in January, President or no President.

Mr. EVANS (Weber). Of course, if there would be no State there would be no officers.

Mr. GOODWIN. Then they would not have their offices until a year from January?

Mr. EVANS (Weber). That merely

fixes it for the future. Under the peculiar position which you present they could not take their offices on the first of January, but would take them immediately after the proclamation was issued.

Mr. GOODWIN. I only asked for information.

Mr. EVANS (Weber). I will state further that the schedule will provide that these officers are not to take their offices until after the proclamation is issued.

Mr. GOODWIN. The reason I asked is I knew the President was a little peculiar and he suspends the law occasionally.

Mr. EVANS (Weber). Well, I move that he issue his proclamation before the first day of January.

Mr. BUYS. Mr. President, I move to amend by striking the word "school" out of the substitute. I do not know what line it is in.

The PRESIDENT pro tem. The chair hears no second.

Mr. CRANE. Mr. President, I would like to hear my substitute read.

The same was read as follows:

After the adoption of this Constitution all general elections for State, judicial, district, county, and precinct officers shall be held on the Tuesday next following the first Monday in November of the year in which the general election is held. The term of all officers elected at any general election shall commence on the first Monday in January next following the date of their election. The Legislature may provide for special elections for municipal and school officers.

Mr. NEBEKER. Mr. President, I am against the field in favor of the section as it came from the committee of the whole and amended in this Convention this afternoon. I think that the printed matter with the amendments that have already prevailed—the amendment of Mr. Thurman, makes this section complete, with the exception possibly of its being necessary to provide for the collector, and I would favor an amendment to provide for that collector, and outside of that I would like to see the

section as it now stands placed before this Convention and all substitutes voted down.

The question being taken on the substitute offered by Mr. Evans, of Weber, it was rejected.

The PRESIDENT pro tem. The question now recurs upon the substitute offered by Mr. Coray as follows:

After the adoption of this Constitution the first Legislature shall provide for all general and special elections in the State.

The substitute was rejected.

The PRESIDENT pro tem. The question now apparently recurs upon the substitute offered by the gentleman from Millard. Is it the same practically that was presented in the former substitute?

Mr. CRANE. With the exception of the school and municipal officers. I have eliminated them from that substitute.

Mr. VAN HORNE. Mr. President, I move to strike out the words "after the adoption of this Constitution," in the substitute.

The motion of Mr. Van Horne was rejected.

The question being taken on the adoption of the substitute offered by Mr. Crane, the Convention divided, and by a vote of 32 ayes to 47 noes the substitute was rejected.

The PRESIDENT pro tem. The clerk will read section 15.

Mr. CANNON. Mr. President, I understand that Mr. Nebeker offered some amendment.

The PRESIDENT pro tem. He didn't send it up.

Section 15 was read.

The PRESIDENT pro tem. The question before the Convention—

Mr. RICKS. Mr. President, I was going to move the adoption of the article as amended.

The PRESIDENT pro tem. It is not necessary, I believe. As I understand it, the question before the Convention

is the passage upon the third reading of the article.

Mr. SQUIRES. Mr. President, I understand we are now about to take the vote on the article as amended. Before we proceed to that I would like to call the attention of the Convention to the situation that we will be in. During the rather heated debate upon the first section of this article, the gentleman from Utah, Mr. Thurman, made the statement here, which I believe he made in good faith, that if the time should come later on when the Convention should discover that a mistake had been made in adopting this first section as it stands, he would join with the minority in asking for a reconsideration of that vote. I call the attention of the house now to this parliamentary condition, that if we pass this section to-day by a roll call we put it beyond the power of my friend from Utah County or any other county in the Territory to reconsider this proposition. Now, I believe that some action should be taken, in view of the widespread interest there is manifested in this subject throughout the Territory, whereby at some future time, if it shall seem wise to the Convention, we may reopen this subject for a final vote. I merely call the attention of the Convention to that fact. After this roll call has been taken it is passed beyond our power to reconsider it under the rule. I ask Mr. Thurman if he does not consider that is the situation.

Mr. THURMAN. Mr. President, it has been called to my attention to-day that having adopted Roberts' rules of order, a motion to reconsider must be made on the same day on which the act took place that it is desired to reconsider. Now, I know the gentleman don't intend to put me in any false position. I remember my position on this question, but I will say this, and I believe I ought to have the unanimous consent right here granted, that by a

two-thirds vote not only the proposition in the mind of the gentleman from Salt Lake, but any proposition in this Constitution should be reconsidered at any time, and with the unanimous consent of the Convention I will move now that that rule which requires a motion to reconsider on the same day—that that portion of the rule binding this body be indefinitely postponed. I think if two-thirds of this Convention at any time want to reconsider a question that they ought to have permission to do so.

The PRESIDENT pro tem. The chair will suggest to the gentleman from Utah that two-thirds of the Convention can suspend the rule. The gentleman isn't accomplishing anything by that proposition.

Mr. THURMAN. The only suggestion is this, that it be suspended now so as to meet the fears of the gentleman that we may not be able to reconsider this after this vote.

Mr. EVANS (Weber). So that a motion to reconsider would not be ruled out of order?

Mr. THURMAN. Yes; as far as the vote is concerned, I think we ought to vote on this article. I think we ought to pass it or reject it by the ayes and noes.

The PRESIDENT pro tem. What is the gentleman's motion?

Mr. THURMAN. My motion is that that portion of the rule which requires that the motion to reconsider be made on the same day be suspended indefinitely, as to this case or any other.

Mr. JAMES. I was going to ask Mr. Thurman if he would not include in that motion a majority in place of two-thirds?

Mr. THURMAN. Oh, no.

Mr. JAMES. The reason why I ask him this question is I find that in the proceedings in some conventions that rule was adopted for the reason that some things might arise afterward that it was considered important to reconsider.

Mr. HART. Mr. President, I do not object to the motion of the gentleman to suspend the rules so far as this question is concerned, but the practical effect of his motion to dispose of this article would be to suspend our rules. Of course, it could not be done, I take it, except it comes up in the usual way. I therefore move, as an amendment to the motion of the gentleman from Utah, that we suspend this so far as the article that we are now considering is concerned. Of course this matter might be reached in a different way without a motion to suspend this rule or making a motion to reconsider now and then laying it on the table. It could be taken up by a majority vote at any time, and the question of that two-thirds' majority—I think the gentleman must be laboring under a mistake here. As I understand it, our rules provide a different rule from that indicated. I therefore move that we make this apply simply to the article that we are now considering—elections and suffrage.

The PRESIDENT pro tem. It is moved and seconded that the original motion be amended so as to read substantially in this wise:

That the general rule of order providing that a motion to reconsider cannot be made after the day upon which the vote is taken, shall be suspended in the matter of article relating to elections and rights of suffrage—

Mr. HART. Mr. President, I think that it would be a dangerous position to leave ourselves here in, on questions in general, if, after calling the yeas and nays on a question and finally disposing of it in that way—if, without notice, a person could take up a question like that any time. You would never know when any question might come up.

Mr. THURMAN. Mr. President, I arise to a point of order. Unless I have unanimous consent, this whole thing is out of order, and it seems I have not got it.

The PRESIDENT pro tem. I don't agree with the gentleman; I think a two-thirds' vote can suspend a rule at any time.

MR. THURMAN. It seems we cannot bring it up in a proceeding like this.

Mr. HART. I don't think the motion should apply to anything further than the article on suffrage and elections, otherwise we will never know when some person moves to reconsider a matter that we think had been passed on. All a man would have to do would be to wait until a number of the friends of the measure are out of the house and then he would move a reconsideration, and get a different ruling, perhaps.

Mr. EVANS (Utah). Does not this have the effect of establishing a new rule under Mr. Thurman's motion?

The PRESIDENT pro tem. No; Mr. Thurman's motion, as originally put, the chair would hold that it would modify and change the standing rule; as proposed to be amended, the chair would hold it would be a suspension for a particular purpose.

Mr. EVANS (Utah). I make the point of order against the original motion for the reason that it is out of order and cannot be presented that way.

The PRESIDENT pro tem. The chair would hold that the rule sending it to a committee may be suspended by a two-thirds vote. We cannot determine that until the vote is taken. The question is on the amendment.

Mr. EVANS (Weber). Mr. President, I am in favor of the suspension of the rule, and I would go further than the gentleman has on my part, and everybody knows, too, how I stand, but I would permit a majority of this Convention to reconsider that question, if a majority wanted to do so. I therefore move as an amendment to the amendment that a majority of the Convention may bring this matter up for reconsideration.

The PRESIDENT pro tem. Gentle-

men, it is not necessary. If the amendment proposed by Mr. Hart shall prevail, or whether it does or not, a majority under the rule can reconsider. The only question here is that your standing rule prohibits from making any motion to reconsider after the day upon which the vote is taken. Now, it is sought to suspend that rule by the amendment and by the original motion as modified.

Mr. CORAY. Mr. President, do I understand the ruling of the chair to be that a majority can reconsider at any time, or a two-thirds majority?

The PRESIDENT pro tem. The chair does not rule that a reconsideration can be had at any time. There is no ruling to be made. The chair is of the opinion that a motion to reconsider, if properly made, can be carried by a majority under your rules, but the only question is whether you can suspend the rule as to the time when the motion can be made.

Mr. CHIDESTER. Mr. President, I oppose Mr. Evans's motion. Is that before the house?

The PRESIDENT pro tem. No, sir. He has made no motion.

The amendment offered by Mr. Hart was agreed to.

The PRESIDENT pro tem. The question now comes upon the motion as amended.

The motion was agreed to.

The PRESIDENT pro tem. Now, in order that there may be no misunderstanding, I will state this motion as I understand it to be carried, and if the secretary hasn't it in accordance with the statement of the chair, one or the other of us will be corrected. The standing rule of the Convention providing that motions to reconsider may not be made after the day upon which a vote sought to be reconsidered is suspended in the particular case of the article on elections and rights of suffrage. The question now recurs upon the final roll

call. The first section has been passed, has it not?

Mr. ROBERTS. Yes, sir.

The PRESIDENT pro tem. On the remaining portion of this section.

Mr. SQUIRES. Mr. President, there are a number of gentlemen present to-day that were not present when the roll was called on the first section, and would like to be recorded on that section. Why not give them an opportunity?

The PRESIDENT pro tem. The chair cannot change the order of parliamentary business. If the gentlemen want to be recorded they will have to be here or arise to a question of personal privilege and have it go on the journal.

Mr. BOYER. Mr. President, now I want to vote intelligently on this question, and if I understand the question aright, it is simply a vote for the changing of the order?

The PRESIDENT pro tem. The chair will state again that you are voting on the final passage of every section in this article as amended, except the section which has already been passed—the first section.

Mr. BOYER. I do not understand it yet.

The PRESIDENT pro tem. The chair is informed by the minutes and by the president *de jure* of this Convention that on roll call section 1 was passed on the third reading. The chair is now advised that the question of the passing of the remaining sections of the article is before the house, and upon those sections you are voting.

Mr. EVANS (Weber). We are voting on the whole article, are we not?

The PRESIDENT pro tem. We are voting on all but section 1.

Mr. EVANS (Weber). I arise to a point of order. The rules provide that the yeas and nays may be called upon any proposition. We called them on that just like we did on any proposition.

The PRESIDENT pro tem. The chair

is of that opinion. The vote before was an unnecessary one. It was a motion upon the adoption of section 1. The question now is upon the third reading and final passage of this entire article.

The roll call showed the following result:

AYES—75.

Allen	Larsen, L.
Anderson	Larsen, C. P.
Barnes	Lemmon
Boyer	Lewis
Brandley	Lowe, Wm.
Buys	Lowe, Peter
Call	Low, Cache
Cannon	Maeser
Chidester	Maloney
Clark	Maughan
Coray	McFarland
Corfman	Miller
Crane	Morris
Creer	Murdock, Beaver
Cunningham	Murdock, Summit
Driver	Nebeker
Eichnor	Partridge
Eldredge	Peters
Emery	Peterson, Grand
Engberg	Peterson, Sanpete
Evans, Weber	Preston
Evans, Utah	Raleigh
Farr	Ricks
Francis	Robertson
Gibbs	Robinson, Kane
Goodwin	Robison, Wayne
Hammond	Shurtliff
Hart	Snow
Halliday	Squires
Heybourne	Symons
Howard	Thompson
Hyde	Thoreson
Ivins	Thorne
Johnson	Thurman
Jolley	Varian
Kerr	Wells
Kimball, Salt Lake	Williams.
Lambert	

NOES—16.

Adams	Keith
Bowdle	Kearns
Button	Roberts
Green	Ryan

Haynes
Hill
James
Kiesel

Sharp
Spencer
Stover
Van Horne.

ABSENT—13.

Christianson	Murdock, Wasatch
Cushing	Page
Hughes	Strevell
Kimball, Weber	Thatcher
Lund	Warrum
Mackintosh	Whitney.
Moritz	

Messrs. Pierce and Richards were paired.

During the call the following explanations were made:

Mr. BOWDLE. Mr. President, I vote aye on all excepting the first section, and vote no on that.

The PRESIDENT pro tem. The gentleman cannot record his vote in that way. He may record his vote with such explanation as he may make to go on the minutes.

Mr. BOWDLE. I vote no, then:

Mr. BUTTON. Mr. President, I vote aye, and wished to be excused on the first section.

The PRESIDENT pro tem. The vote is on the entire article.

Mr. BUTTON. I vote no.

Mr. EICHNOR. Mr. President, I ask for information whether a delegate can not vote for the article and have his vote recorded against one or two sections?

The PRESIDENT pro tem. The chair is of the opinion that he cannot. He has had the opportunity to do that, and as a matter of fact this house has recorded its vote on this particular matter before. As the sections were passed the ayes and noes were called on one of them, but the chair is of opinion that the third reading of this proposition means as a whole.

Mr. EICHNOR. I will ask another question. If the gentleman who occupies the chair now did not have his vote recorded the other day against section 10 of the bill of rights?

The PRESIDENT pro tem. No; the gentleman who now occupies the chair, when then in his seat, explained his vote while voting for the entire article and said he did not approve of nor endorse section 10. It was entered so on the minutes.

Mr. EICHNOR. I vote aye and cannot approve of section 14.

The PRESIDENT pro tem. Does the gentleman desire that entered on the minutes?

Mr. EICHNOR. Yes, sir.

Mr. EVANS (Utah). I desire to vote aye, but I do not endorse section 14.

Mr. KERR. I vote aye on the entire article, but I favor submitting as a separate proposition the section providing for woman suffrage.

Mr. LAMBERT. I vote aye on this and will move to reconsider section 1.

Mr. PIERCE. Mr. Richards was detained in court this afternoon. If he were here he would vote aye on the bill and I would vote no. We are paired.

Mr. EICHNOR. Mr. President, cannot a delegate after he has voted qualify any other section?

The PRESIDENT pro tem. No, sir—I do not understand the gentleman.

Mr. EICHNOR. When I voted I said I could not approve section 14. I would like to qualify my vote with respect to another section.

The PRESIDENT pro tem. Well, I presume the gentleman may add another section to his remarks and consider it in.

Mr. EICHNOR. That as to section 1?

The PRESIDENT pro tem. I cannot receive a statement now, while the roll is being called. I thought the gentleman was just going to mention a section.

The president pro tem announced that the article on elections and rights of suffrage had passed its third reading and gave notice that he would move to reconsider the vote by which the article had passed.

Mr. Williams was excused until next Wednesday.

Mr. SQUIRES. Mr. President, I move that we now resolve ourselves into committee of the whole to take up the executive article.

The motion was agreed to.

The Convention then resolved itself into committee of the whole with Mr. Evans of Weber in the chair.

COMMITTEE OF THE WHOLE.

Consideration of the article on executive was resumed.

The CHAIRMAN. Gentlemen, as the chair is informed, the committee passed section 12, unless there are some further amendments to it.

Mr. EICHNOR. Mr. Chairman, I offer a substitute for section 12.

The same was read as follows:

The governor shall have power to grant pardons, conditional or absolute, to remit fines or forfeitures, and to grant reprieves and commutations of sentence, after conviction and judgment, for all offenses except treason and in cases of impeachment, but no pardon shall be granted nor sentence commuted in cases of felony, except upon the written recommendation of not less than the majority of the board of pardons, consisting of the secretary of state, attorney general, and state auditor.

Mr. VARIAN. I wish to ask as a favor of the committee that they will postpone the consideration of this executive article and take up some other that they have here.

It will be impossible to conclude this evening and I am compelled to go into court in a law suit to-morrow morning, and as the chairman of that committee, the members expect me to be here. It will not delay you at all, but just pass on to some other article and finish that, and at that time take up the remainder of this article.

The CHAIRMAN. You have heard Mr. Varian's statement, if there is no objection we will take up the next article on the calendar—ordinance and federal relations.

The committee then proceeded to the

consideration of the article on ordinance.

The first subdivision was read as follows:

The following ordinance shall be irrevocable without the consent of the United States and the people of this State:

First. Perfect toleration of religious sentiment shall be secured, and no inhabitant of this State shall ever be molested in person or property on account of his or her mode of religious worship; and polygamous or plural marriages are forever prohibited.

Mr. KIMBALL (Salt Lake). Mr. Chairman, I have no objections to the first section, if we put "Congress of the United States" in that part. I think that is altogether too broad, and it is not meant in that sense. I move an amendment that we place immediately before the words "United States," in the second line, the words "the Congress of the."

Mr. MALONEY. Mr. Chairman, the Enabling Act provides that this Convention shall provide by ordinance irrevocable that the consent of the United States and the people of said State, etc., so I think it would be improper for the committee to insert the words "the Congress of the United States." We want to comply strictly with the Enabling Act.

Mr. ROBERTS. Mr. Chairman, I see no reason for inserting the words "the Congress" in that line. The only way that the people of the United States could ever give any consent to this would be by its Congress. We may as well, as suggested by my friend from Washington just now, insist upon putting the words the Legislature of Utah in as to insist upon putting the word Congress there. It seems to me, sir, that the paragraph is perfectly clear. The only way that the United States could ever give its consent to change this matter would be through the Congress of the United States. That is clearly understood.

Mr. GOODWIN. Mr. Chairman, it seems to me that means more than the Congress of the United States. It means the Congress and the President of the United States. That is the government. That is so understood.

Mr. EICHNOR. Mr. Chairman, I agree with the gentleman from Davis County and the gentleman from Weber County, that the words "United States" should be used. This is compliance with the Enabling Act, and, gentlemen, if you want our Constitution to go in the waste basket, just tamper with the requirements the Enabling Act lays down for the compact. Do not tamper with it. That is my advice.

Mr. KIMBALL (Salt Lake). Mr. Chairman, by way of explanation, reading the Enabling Act, I had the idea that it was Congress there. My attention has been called to it—

The CHAIRMAN. Does the gentleman withdraw his amendment?

Mr. KIMBALL (Salt Lake). I am willing it should go to a vote, because I think it is too broad.

The amendment was rejected.

Mr. HART. Mr. Chairman, there is a matter connected with the adoption of this first division that I desire to call the committee's attention to, and that is whether this last clause is sufficient. I am aware of the fact that it is in the exact language of the Enabling Act, but it occurs to me that there may possibly be some question on this section for this reason: That under this language, the prohibition that is sought to be secured here, enacted in these words, is not operative, unless you go further and make this class of offenses a crime or misdemeanor and provide a punishment therefor. For instance, supposing you adopt this Constitution in the form it is now in and the Legislature should omit to follow this up by the passage of laws making this class of offenses crimes or misdemeanors, where would you be then? Of course the object of the ordinance on this subject is to secure the

punishment of these offenses for all time. That is, it does not desire to place the matter in the discretion of the Legislature or the people of this Territory, and it seems to me that the language as it now stands is not self-operative. That, in order to make it self-operative, in this Constitution we must go further and declare those things offenses and provide a penalty therefor. I haven't prepared any amendment, but I submit this matter to the Convention, whether it would be better to cover this matter clearly and distinctly, and there will be no question in the mind of Congress as to the real meaning of the Constitution?

The CHAIRMAN. There is no amendment to the first paragraph of the ordinance.

The chair hearing none, we will pass to the second.

The second paragraph was read as follows:

Second. The people inhabiting this State do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within the boundaries thereof, and to all lands lying within said limits owned or held by any Indian or Indian tribes, and that until the title thereto shall have been extinguished by the United States the same shall be and remain subject to the disposition of the United States, and said Indian lands shall remain under the absolute jurisdiction and control of the Congress of the United States; that the lands belonging to citizens of the United States residing without this State shall never be taxed at a higher rate than the lands belonging to residents thereof; that no taxes shall be imposed by this State on lands or property therein, belonging to or which may hereafter be purchased by the United States or reserved for its use; but nothing in this ordinance shall preclude this State from taxing, as other lands are taxed, any lands owned or held by any Indian who has severed his tribal relations and has obtained from the United States or any person a title thereto by patent or other grant, save and except such lands as have been or may be granted to any Indian or Indians under any act of Congress, containing a provision exempting the lands thus granted from taxation, which last mentioned lands shall be exempt from taxation so long, and to such extent, as

is or may be provided in the act of Congress granting the same.

Mr. CORAY. Mr. Chairman, I move to amend by striking out that portion after the words "United States," in line 12, down to the word "thereof."

No second.

Subdivisions 3 and 4 were as follows:

Third. All debts and liabilities of the Territory of Utah, under authority of the Legislative Assembly thereof, are hereby assumed and shall be paid by this State.

Fourth. The Legislature shall make laws for the establishment and maintenance of systems of public schools, which shall be open to all children of the State and free from sectarian control.

Mr. SMITH. Mr. Chairman, I move the article be adopted as a whole.

The motion was agreed to.

The committee of the whole then proceeded to the consideration of the article entitled "congressional and legislative apportionment."

Sections 1, 2, 3, and 4, were read and passed without an amendment.

The subdivision entitled "representative districts" was read.

Mr. CORAY. Mr. Chairman, I think that the provisions in line 4 may conflict with what has gone before. Section 3 states that the number of representatives shall not exceed ninety. If it should ever occur that there would be more than ninety counties in the Territory, it would conflict.

The CHAIRMAN. The chair hears no motion or second.

The subdivision of the article entitled "senatorial districts," was read.

The CHAIRMAN. What is your further pleasure, gentlemen?

Mr. CANNON. Mr. Chairman, I would like to ask the chairman of the committee on apportionment the basis of the apportionment briefly stated in both the representative districts.

Mr. ELDREDGE. There would be about 3300, taking them as a whole.

Mr. CANNON. Both in the representative districts and in the senatorial?

Mr. ELDREDGE. It is based as nearly as possible upon 12,000.

Mr. CANNON. Mr. Chairman, I then move the adoption of the article as read.

The motion was agreed to.

The committee then proceeded to the consideration of the article entitled "public lands."

Section 1 was read as follows:

PUBLIC LANDS.

Section 1. All lands of the State that have been, or that may hereafter be granted to the State by Congress, and all lands acquired by gift or grant or devise from any person or corporation, or that may otherwise be acquired, are hereby received and shall be the public lands of the State, and shall be held in trust for the people, to be disposed of as hereafter provided, for the respective purposes for which they have been or may be granted, donated, devised, or otherwise acquired; and none of such lands nor any estate or interest therein shall ever be disposed of except in pursuance of general laws providing for such disposition, nor unless the full market value on the estate or interest disposed of, to be ascertained in such manner as may be provided by law, be paid or safely secured to the State; nor shall any lands that the State holds by grants from the United States (in any case in which the manner of disposal and minimum price are so described) be disposed of, except in the manner or for at least the price described in the grant thereof, without the consent of the United States. Said lands shall be classified by the board of land commissioners as follows:

First.—Lands which are valuable only for grazing purposes.

Second.—Those which are principally valuable for the timber that is on them, or the stone or coal which is in them.

Third.—Agricultural lands.

Fourth.—Lands within the limits of any town or city; provided, that any such lands may be classified whenever, by reason of increased facilities for irrigation, or otherwise, they shall be subject to different classification.

Mr. MALONEY. Mr. Chairman, I have an amendment to section 1.

The same was read as follows:

Strike out all of lines 1, 2, 3, 4, 5, and line 6 down to the word "shall," and insert in lieu thereof the following:

Section 1. The State of Utah hereby accepts the several grants of land granted by the United States to this State by an act of Congress entitled an act to enable the people of Utah to form a Constitution and a State government and to be admitted into the Union on equal footing with the original states, under the conditions and limitations therein mentioned, reserving the right, however, to apply to Congress for modification of such conditions and limitations in case of necessity. All lands that may hereafter be granted to the State by the United States, and all lands acquired by gift, grant, devise, or from any person or corporation, or that may be otherwise acquired, are hereby declared.

I wish to say that the section has been amended to follow the Enabling Act exactly. Section 1 as it now stands is not in accordance with the Enabling Act. It provides that lands hereafter acquired be received. It strikes me it is rather awkward to say that we receive lands now that may be hereafter donated. I have followed the Enabling Act word for word, so as to get at the intent of Congress, and I think that we ought to adopt it, and after the word "shall" the balance of section 1 is in accordance with the Enabling Act. I wish the gentlemen of the Convention would compare it with the Enabling Act and see that I am correct about it. I wish to state, as stated by the gentleman from Salt Lake, if we do not comply with this Enabling Act it is not worth while for us to form any Constitution and submit it to the people, as you will see that the Enabling Act provides that if all the requirements of this act be complied with, then the President of the United States must issue this proclamation. So that it is very important that we comply with all the requirements of the Enabling Act.

The CHAIRMAN. What section is that?

Mr. MALONEY. Section 4.

The CHAIRMAN. What section of the Enabling Act did you copy this amendment from?

Mr. MALONEY. I think it is section 8 and subsequent sections.

Mr. SQUIRES. Mr. Chairman, as this seems to be rather an important matter, and we have reached our usual hour for adjournment, I move the committee now arise and report progress.

The motion was agreed to.

The committee then rose and reported as follows:

MR. PRESIDENT:

The committee of the whole have had under consideration the article on ordinance and have recommended its adoption; also the article on apportionment and boundaries and have recommended its adoption, and have further considered the article on public lands and beg leave to report progress and ask to sit again.

The Convention then, at 5 o'clock p. m., adjourned.

THIRTY-SEVENTH DAY.

TUESDAY, April 9th, 1895.

The Convention was called to order at 10 o'clock a. m. by President Smith.

The roll was called and all members found to be present except Kimball, of Salt Lake, Richards and Thatcher.

Prayer was offered by the Rev. Ritchie, of the Congregational Church.

The journal of the thirty-sixth day's session was read and approved.

Petitions and memorials.

The following petitions were presented, asking that the question of woman's suffrage be submitted as a separate article to the vote of the people?

File No. 198, signed by Geo. Canning, of Salt Lake, and 120 others, by Van Horne, of Salt Lake.

File No. 199, signed by E. Lynch, of American Fork, and 160 others, by Cunningham, of Utah.

File No. 200, signed by Thos. Fryer, of Box Elder, and 62 others, by Peter Lowe, of Box Elder.

File No. 201, signed by P. H. Candland, of Salina, and 142 others, by Ricks, of Sevier, by request.

File 202, signed by Geo. W. Groo, of Park City, and 70 others, by Murdock, of Summit.

File No. 203, signed by A. D. Moffat, of Park City, and 62 others, by Murdock, of Summit.

File No. 204, signed by Henry Booth, of Stockton, and 40 others, by Stover, of Tooele.

File No. 205, signed by John Faunce, of Ophir, and 70 others, by Stover, of Tooele.

File No. 206, signed by H. C. Larson, of Elsinore, and 49 others, by Brandley, of Sevier.

File No. 207, signed by C. F. Olson, of Hyrum, and 49 others, by Roberts, of Davis.

File No. 208, signed by W. H. Meneray, of Silver City, and 22 others, by Ryan, of Juab.

File No. 209, signed by C. H. Blanchard, of Silver City, and 27 others, by Ryan, of Juab.

File No. 210, signed by Dan Blanchard, of Silver City, and 36 others, by Ryan, of Juab.

File No. 211, signed by Mrs. L. Parson, of Sandy City, and 196 others, by Cushing, of Salt Lake.

File No. 212, signed by Joseph Williams, of Morgan County, and 72 others, by Francis, of Morgan, by request.

File No. 213, signed by Mattie S. Woodward, of Salt Lake City, and 20 others, by Goodwin, of Salt Lake.

File No. 214, signed by Mrs. W. S. McCornick, of Salt Lake, and 160 others, by Goodwin, of Salt Lake.

File No. 215, signed by John Stubbs, of Salt Lake, and 30 others, by Goodwin, of Salt Lake.

File No. 216, signed by A. W. B. Lundquist, of Thistle, and 60 others, by Goodwin, of Salt Lake.

File No. 217, signed by Ben F. Whitte-

more, of Salt Lake, and 150 others, by Goodwin, of Salt Lake.

File No. 218, signed by Wm. Holmes, of Salt Lake, and 45 others, by Thurman, of Utah, by request.

File No. 219, signed by James P. Jensen, of Newton, and 50 others.

Special orders.

Mr. WHITNEY. Mr. President, before we pass this, I ask unanimous consent of the Convention to allow me to make a presentation to the president, by request.

The PRESIDENT. If there is no objection the gentleman may do so.

Mr. WHITNEY. Mr. President, I have been requested to present to you this collection of portraits of the officers and members of the Convention, not as an evidence of our egotism, nor even as a token of the regard which we all feel for you. The gift, while of us, is not from us, but is presented with the compliments of the enterprising photographer, Mr. Shipler, who captured us, it seems, with these ends in view. Doubtless in the years to come, when you survey this artistic specimen of his handiwork, this counterfeit presentation of the sea of upturned faces that now greet you, you will be reminded of many interesting scenes and incidents. Let us hope, however, that none but pleasant memories will be recalled, and that both you and ourselves will continue to cherish kindly feelings for each other, with affectionate reminiscences of the time when you held the helm of this Convention and guided the bark of deliberations through stormy seas of debate to the haven of an accomplished task. [Applause.]

The PRESIDENT. I hope and trust that the friendships awakened here may continue forever.

Mr. GOODWIN. Mr. President, is that intended to be submitted separately? [Laughter.]

The PRESIDENT. It looks as if it was; yes.

Third reading of ordinances and propositions to be inserted in the Constitution.

Mr. HART. Mr. President, I move you that we suspend the rules and resolve ourselves into the committee of the whole for the further consideration of the article on public lands.

The question being taken on the motion, the Convention divided, and by a vote of 11 ayes, (noes not counted,) the motion was rejected.

The Convention then proceeded to the third reading of the article entitled ordinance.

Subdivision one was read by the secretary.

Mr. JAMES. Mr. President, I do not rise to make any argument or introduce any resolution, but for an inquiry. When that section was reached on yesterday, Mr. Hart rose in the Convention and made some statements regarding the requirements of the Legislature to enact some law or laws regarding the punishment for the violation of the law mentioned in that section, and called the attention to the fact that if that was not done by the Legislature there was nothing in the provision as it stood. I did not fully understand him yesterday, but I wanted to inquire what his opinion was there regarding that matter and what the necessity was. Well, the point, Mr. President, was simply this, that provision of the Constitution is not self-executing. It would require legislation in line with the same provision in order to secure the ends desired, and I simply presented the matter for the consideration of the Convention, as to whether it would be expedient in order to remove all questions of doubt, as to whether the provision on this subject that we incorporate it in the Constitution is strong enough to be beyond all question. I had no amendment, Mr. President to propound at the time, but simply suggested a fact, which I think will be conceded by every attorney here,

that provision is not self-executing. There was a similar question came up under the constitution of California, and if I remember rightly the ruling of the supreme court there was that the provision of the constitution was not self-executing; that in order to make it so and to cover that ground more fully, you would have to go further and declare the act an offense in the Constitution itself.

Mr. EVANS (Weber). Mr. President, there is no motion before the house, but it seems to me this complies fully with the Enabling Act, just as it is. The Constitution will undoubtedly put in effect all the laws of the Territory, and there is a territorial law making these offenses penal. I would not be in favor of changing it at all. I think it is just as it should be.

Mr. EICHNOR. Mr. President, I realize that there is no question before the house. I was a member of the committee that drafted this article. I am not chairman of the committee. Mr. Heybourne, of Iron County, is the chairman. I will state that the committee gave this clause, "and polygamous or plural marriages are forever prohibited," the greatest consideration, and after consultation with members outside the committee, we came to the conclusion that we met the requirements of the Enabling Act fully if we adopted the language of the Enabling Act.

The PRESIDENT. There is no question before the house, gentlemen.

The remainder of the article was read by the secretary.

Mr. EVANS (Weber). Mr. President, I move the passage of the ordinance as read.

Mr. KERR. Mr. President, I would like to ask the chairman of the committee the object of providing in the fourth paragraph for the maintenance of systems of public schools? It is provided in the article on education for a system of public schools.

Mr. HEYBOURNE. I will state in

answer to the gentleman it is simply the language of the Enabling Act in the fourth paragraph.

(Reads.)

The PRESIDENT. The question is why you put in systems in this section, instead of system.

Mr. HEYBOURNE. There may be a typographical error there.

Mr. SQUIRES. Mr. President, I move that the word "systems" be stricken out and the words "a system" be inserted.

The motion was agreed to.

The roll being called on the adoption of the article entitled ordinance, the result was as follows:

AYES—90.

Adams	Kimball, Salt Lake
Allen	Lambert
Anderson	Larsen, L.
Barnes	Larsen, C. P.
Bowdle	Lemmon
Boyer	Lewis
Brandley	Lowe, Wm.
Button	Lowe, Peter
Buys	Low, Cache
Call	Maeser
Cannon	Mackintosh
Chidester	Maloney
Christiansen	Maughan
Clark	McFarland
Coray	Miller
Corfman	Morris
Creer	Moritz
Cunningham	Murdock, Beaver
Cushing	Murdock, Summit
Driver	Nebeker
Eichnor	Page
Eldredge	Partridge
Emery	Peters
Engberg	Peterson, Grand
Evans, Weber	Peterson, Sanpete
Evans, Utah	Preston
Farr	Raleigh
Francis	Ricks
Gibbs	Roberts
Goodwin	Robertson
Green	Robinson, Kane
Hammond	Robison, Wayne

Hart	Ryan
Haynes	Sharp
Halliday	Shurtliff
Heybourne	Squires
Hill	Stover
Howard	Symons
Hughes	Thompson
Hyde	Thoreson
Ivins	Thorne
James	Thurman
Keith	Van Horne
Kearns	Wells
Kerr	Whitney.

NOES—0.

ABSENT—16.

Crane	Richards
Johnson	Snow
Jolley	Spencer
Kiesel	Strevell
Kimball, Weber	Thatcher
Lund	Varian
Murdock, Wasatch	Warrum
Pierce	Williams.

The PRESIDENT. The article on ordinance has been adopted and will be referred to the committee on compilation and arrangement.

Mr. EVANS (Utah). Mr. President, I move that we resolve ourselves into committee of the whole for the consideration of the article on public lands.

Mr. ANDERSON. Mr. President, I am opposed to that motion.

Mr. SQUIRES. Mr. President, it is not subject to debate.

The motion was agreed to.

The Convention then resolved itself into committee of the whole, with Mr. Eldredge in the chair.

COMMITTEE OF THE WHOLE.

The CHAIRMAN. Gentlemen, the business under consideration is the article on public lands. There was an amendment pending, offered by Mr. Maloney.

Mr. MALONEY. Mr. Chairman, upon due reflection, I will withdraw the amendment I proposed to section 1.

The CHAIRMAN. If there is no ob-

jection, the gentleman's request relative to the amendment will be granted.

Mr. EVANS (Weber). Mr. Chairman, I desire to offer an amendment to section 1. I was preparing it. I think it is a matter of some considerable importance.

The CHAIRMAN. The gentleman will write it out and send it to the clerk.

Mr. EVANS (Weber). I will call the attention of the committee to it now. The amendment is somewhat crude. The amendment would be to provide that school lands and other lands where people have actually settled upon them prior to the date of survey and plat in the land office, that they should be entitled to receive such land at a less price than its actual value. I will prepare the amendment a little later on, and I want to call the attention of the Convention to it now. Section 1 provides, among other things, that these lands be disposed of pursuant to general law providing for such disposition, by paying the full market value of estate or interest disposed of. I think it will have to be recommitted. If I am right in my theory of it, I think this Convention will recommit this section to the committee. The point I make is this, if I may be permitted to make it, that we all know in this Territory that many people settled upon lands which are now school lands. At the time they settled upon it, they did not know they were school lands or not. The lands were unsurveyed. They made their homes upon them, and it would seem to me now to be unjust that the State should require these people to pay the full value for those lands to-day, and the substance of my amendment would be to let the Legislature make such provisions as would enable those people to secure those lands at a less value than their actual market price.

The CHAIRMAN. If the gentleman wishes to have it recommitted, it would be necessary to make a motion, and then give his reasons for it.

Mr. EVANS (Weber). I move that the section be recommitted to the committee on public lands.

Mr. MAUGHAN. I second the motion.

Mr. EVANS (Weber). For the purpose of taking into consideration the advisability of adding some provision by which the people who settled upon these lands prior to their survey might receive title at a less price than its actual market price.

Mr. BOWDLE. Mr. Chairman, for the information of the Convention, I would state that the committee on education, which is also a committee upon school lands, has an article in process of preparation, if not already completed, that covers that question, and I do not know that we would need two articles. If it was put in here, why the committee that I speak of would not need to make any report. It seems to me it comes more appropriately under the head of school lands than the committee we are treating of.

Mr. LOW (Cache). Mr. Chairman, in the early days of our Convention, I stated that there was a conflict in the duties which we thought incumbent upon the respective committees, that of education and school lands and the committee on public lands, which we think can be modified to a certain extent and incorporated in this article. The motion to recommit I think would be the better way to reach this proposition, so that we can successfully arrange it and satisfactorily report to the Convention.

Mr. SQUIRES. Mr. Chairman, the only proper way to recommit would be for the committee of the whole to rise and recommend to the Convention that it be recommitted to the committee, and if that is the desire, I move that we now rise and recommend to the Convention that this section be recommitted to the committee on public lands.

Mr. ROBERTS. Mr. Chairman, I think it is not necessary for this com-

mittee to rise to do that. I think that we should pass this article with a view of reporting it to the Convention, and then have it recommitted. I would therefore, amend the motion that we pass this section now, and when we rise ask the Convention to recommit the article.

Mr. ANDERSON. Mr. Chairman, if it is in order, I will offer a substitute to the amendments, by inserting after "disposition," in the fourteenth line, the following, "except as otherwise provided by this Constitution." If it is as Mr. Bowdle states, that this is provided for in school lands, why, this will meet the objection that is raised against it. A disposition of school lands as provided for by another committee.

Mr. THURMAN. If you will make that to read, "except as provided in the article on education and school lands," I will second it.

Mr. ANDERSON. I will adopt the suggestion.

Mr. ADAMS. Mr. Chairman, the committee on education and school lands handed me their provision with reference to the matter, and I suggest that it be inserted in this article. Perhaps it would be the way out now if this be read. Possibly it would satisfy the committee on school lands.

Mr. EICHNOR. Mr. Chairman, is Mr. Anderson's motion in order? I will second it if it is.

Mr. SQUIRES. Mr. Chairman, I judge that this matter is too important for us to pass over hurriedly, in view of what has been said here in relation to the probable report of the committee on education and school lands. I think it would be wisdom on our part to in some way pass the further consideration of this matter, and either let it go back to the committee, or defer it until the report of the committee on education comes in. I understand now the motion is that when we rise we recommend to the Convention that this whole

article be recommitted to the committee on public lands.

The CHAIRMAN. That was what I understood the gentleman's motion from Salt Lake to be.

Mr. CANNON. Mr. Chairman, I understood Mr. Adams has something to offer. There was some confusion and I could not hear all that he said. I did not understand what the chairman of the committee desired.

Mr. ADAMS. It was merely the suggestion made by the committee on education and school lands, and I stated that possibly it would do away with the matter of reconsidering this. I think it could be brought up now and read. If not, I would vote to recommit.

Mr. ROBERTS. Mr. Chairman, speaking to the proposition of passing this, and reporting the matter to the Convention when we do arise, I wish to say that I hope there will be no attempt to accept the proposition by the committee on education and school lands, and I stated that possibly it would do away with the matter of reconsidering this, because the provisions that they have covered being only applicable to school lands might not cover some of the public lands that are not school lands, and I believe, sir, that this is a matter of such importance that it really ought to go back to the committee for consideration, and I don't think that it would be safe to undertake to substitute the article proposed by the committee on school lands to cover all the public lands of the State, and I therefore hope the motion that we pass shall prevail.

Mr. THORESON. Mr. Chairman, being that a suggestion from the committee on education is now before the committee, and I believe that a large portion of the inhabitants of the Territory and the future State are interested in this matter, and also members here on the floor, I would like to have the suggestion read that we might know what is intended to be done. I want to

say I am in favor of recommitting the matter, but I would just like to hear the lines upon which the matter is to be considered read.

The suggestion by Mr. Adams was read as follows:

The State board of land commissioners shall consist of three members, who shall have the direction, control, and disposition of public lands of the State under such regulations as may be prescribed by law. They shall be selected at large by the qualified electors of the State, and, except for the first term as herein provided, they shall hold office for four years. Of the lands located and selected to satisfy the grants made to the State, it shall be the duty of said board to make allotments to each of the several uses for which the same were granted, so that each may receive its fair proportion thereof, both as to quantity and value. The Legislature shall provide by law, at its first session, that all persons who located and settled upon the lands reserved as school lands, and their grantees, shall be protected in the occupation, cultivation and improvement of such lands by having given to them priority in the purchase; provided, the price of such lands shall not be increased by the value of any improvements made upon them, but shall be sold to the settlers at a fair appraisement of such lands as of the date of settlement thereon.

Mr. THURMAN. Mr. Chairman, I understand this is a motion to recommit to the committee on public lands?

The CHAIRMAN. Yes, sir; to recommend that it would be recommitted.

Mr. THURMAN. In view of the reasons assigned for recommitting, I offer to amend by proposing that it be recommitted to the committee on public lands and school lands jointly. I think that it ought to be that way, because I do not think that any of these committees can act very well without the other.

In fact, that is the way that this matter has come in the shape that it has now, by these committees acting independently; if they are united and deal with this whole question together, I think that we will get a better report.

Mr. SQUIRES. I will accept that amendment.

Mr. EVANS (Weber). Mr. Chairman,

since hearing the report of the committee on school lands, I think if that be adopted, it would fully cover the suggestion which I made, and the amendment suggested by Mr. Anderson would cover everything which is necessary to insert after the word "value," in line 14, "except as otherwise provided in this Constitution." If I knew that we were going to adopt that I would be in favor of this amendment, but since it may not be adopted, I think it would be all right to recommit it.

Mr. LOW (Cache). Mr. Chairman, by way of explanation, I understand from the chairman of the committee to whom these recommendations from the committee on school lands were referred, or from whom they came, they were submitted that there might be no conflict between the two committees, the one on public lands and the one on school lands. It was for the consideration of the one on public lands. If it were to embody those sentiments in the article on public lands, then they would not be covered in the article on school lands, and when the question was raised by the gentleman from Beaver, (Mr. Anderson,) Mr. Adams sought to introduce this so that we would not go beyond the recommendation made from the committee on school lands, the conference or joint committee would arrive at a proper conclusion on this matter, I believe.

The CHAIRMAN. The motion is that the committee of the whole recommend to the Convention that the article on public lands be recommitted to the committee on public lands, and committee on education and school lands jointly.

The motion was agreed to.

The article on militia was considered as follows:

MILITIA.

Section 1 was read.

Mr. SQUIRES. Mr. Chairman, would it not be wise to include in our militia

not only those who are fully citizens, but those whom have declared their intentions to be such—those who have taken out their first papers? I have been engaged in the last month in enrolling the militia of this county under the provisions of a territorial law, which provides that those who have declared their intentions shall be enrolled, and if that is the law now, I do not know why we should not continue it.

Mr. CHIDESTER. There is no motion before the house.

Mr. MACKINTOSH. Mr. Chairman, I move to strike out the word "male" in the section. [Laughter.]

Mr. CHIDESTER. Mr. Chairman, I would like to ask the gentleman a question; who makes that motion? I want to ask if you belong to the militia?

Mr. MACKINTOSH. Now? Oh, no. I am exempt by the color of my hair.

Mr. CHIDESTER. I am going to say that if he did, for the purpose of improving the militia, I would support his motion. [Laughter.]

Mr. Evans of Weber offered the following as a substitute for section 1:

The militia shall consist of all able bodied male citizens and those who have declared their intention to become such, of the State, between 18 and 45 years of age.

Mr. KERR. Mr. Chairman, I move an amendment to the substitute that the word "citizens" be substituted for the word, "such."

Mr. EVANS (Weber). I will accept the amendment.

Mr. BOWDLE. Mr. Chairman, I move to amend by striking out the number "18" and inserting "21."

Mr. GOODWIN. Mr. Chairman, I hope that will not pass, because there are a good many boys in the militia already who are not 21 and a great many boys are better before they are 21 than they ever are afterwards.

Mr. SQUIRES. Mr. Chairman, I am also opposed to that amendment.

Mr. CORAY. Mr. Chairman, I do not

think that a person ought to be required to serve in the militia that has no right to vote. I am opposed to their either serving in the militia or paying a poll tax until they are 21.

Mr. ROBERTS. Will the gentleman permit me a question. I would like to ask if you are in favor that all those who do vote shall be in the militia? [Laughter.]

Mr. BUTTON. Can the State compel a minor to join the militia?

Mr. SQUIRES. Certainly.

Mr. BOWDLE. Mr. Chairman, I favor this amendment for this reason, all aliens that are of that age are excluded; they are not expected to bear arms for the support of the government. Why? Do not they get the protection? They are not citizens. They have no voice in the affairs of the nation, neither a male citizen until he is twenty-one years of age. It is one of the things that necessarily seems to me ought to be coupled with the right of suffrage. I am not speaking about their right, as we propose here to extend it to the females, but as to the male citizen, if he has a responsibility, and upon him is placed the duty of protecting the State until he has something to do toward voicing his sentiment in the matter of its control. Therefore, I am in favor of its being twenty-one.

Mr. SQUIRES. Mr. Chairman, if that is the rule, which the gentleman from Salt Lake would apply to this subject, why not strike out the other limit, forty-five years, and let a man serve in the militia until he is a hundred years old?

Mr. BOWDLE. Because it is supposed when he gets to be forty-five years old that he is no longer any account for anything but to vote. [Laughter.]

Mr. SQUIRES. I call the attention of the gentleman to the fact that I am a little over forty-five years old, but I am still able to bear a musket and am still

willing to do it. My entire service in the army was over before I was twenty-one years old, and my experience was that the young men who served in the war of the rebellion made the best soldiers. I don't think we should make this limit to twenty-one years. I was a soldier when I was sixteen. I believe the young men make the best soldiers.

Mr. EVANS (Weber). Let Goodwin show his record in the war now.

Mr. GOODWIN. Mr. Chairman, I only mentioned this matter because there are some young men in the militia of Utah now who are not twenty-one years of age, and I think in case they were in service under this, they would draw no pay. This could be cured by adding, "But minors may enlist after they are eighteen years of age." I don't care anything about it. Mr. Evans wants to know my record in the war. I call on the chairman to witness that we have had the most serious contests with him during the last two weeks, and he has been the hardest man to down that we have ever met. He is worse in the committee, for instance, than he is on the floor.

Mr. STOVER. Mr. Chairman, in order to set that right, I will state that the United States statute says that the militia shall consist of all able bodied male citizens between 18 and 45 years of age.

Mr. LOW (Cache). Mr. Chairman, I shall object to the amendment offered, more especially as we have heard the expressions of opinions of such learned gentlemen as Colonel Squires, and Captain Stover, and other gentlemen upon the floor here who have earned their laurels, and Captain Hart, from Cache County, desires to express his sentiments also.

Mr. FARR. Mr. Chairman, it is known pretty well that there are a great many boys that are not men at 18, and there are a great many boys

that are men at 16, and able to do military work, but to compel a boy of 18 that is not competent, that has not got his majority—that is, have not got their strength and their vigor, to do military service at 18, I do not think it would be wise or prudent, consequently, I would like to see the law framed to admit a man at any age, if he is competent, and wants to serve his country, he should not be objected to; but to force men at 18 to do military duty when they are boys, I do not think that that would be right, I do not think it would be good management, but they should have that privilege of serving at 18 if they so wish, but to compel them to, I would not do that any more than I would compel a woman to serve at 18. If she wants to serve at 18, and the men want her, let her serve. [Laughter.] Do not compel her. Let her consult her own desires.

Mr. CREER. Mr. Chairman, I find in the constitution of the state of New York, that was passed in 1894, "All able bodied male citizens between the ages of 18 and 45 years." It is in nearly all the constitutions. It is in Wyoming.

Mr. VAN HORNE. Mr. Chairman, some of the members don't understand what this means. It does not mean that every man that belongs to the militia must necessarily serve during time of peace. That is what is known under our national system as a national guard. It simply means that the State, in case of necessity, may call on men, and that they are required to do military duty, these people between 18 and 45—and that is all the section means. If men above 45 want to make voluntary enlistment in case of war, or men under 18 that are growing up to the requisite standard and want to enlist, the statute allows them to enlist, but the men between 18 and 45 can be called upon.

Mr. RYAN. Mr. Chairman, I wish to say a word as to the motive that influenced the committee to report the arti-

cle as they have reported it. Personally I do not like to see the enlarged militia service that states are generally adopting, and many of the committee desire to curtail somewhat, and we thought of making it from 21 to 35. I agree with many other gentlemen that men don't make much soldiers after they are 30 or 35, but looking the matter all over, we follow exactly the provisions of the United States statutes, that all able bodied male citizens between the ages of 18 and 45. We would have made it then in one section except that we wanted to give the discretionary power to the Legislature that they would not have to organize or arm and equip the whole militia force of the State, but they commence at a battalion and go to a regiment or two regiments, if they wish. I think you have men enough in the militia service as that section is adopted, and I would not favor any amendment to it, even for the purpose of taking in those who have declared their intentions to become citizens only. I think you have large enough military force with the provision as reported.

Mr. Jolley, by his request, was excused for the remainder of the day's session.

Mr. HAMMOND. Mr. Chairman, I am in favor of this section as it stands. The gentleman from Salt Lake said he was a soldier at sixteen. I was a sailor at fourteen. I go him two years better, and as times are moving—societies, Coxeyites, what do you call them—common wealers, Dave Day and his Indians, we don't know what will happen. Let us keep them all in from eighteen up.

The motion of Mr. Bowdle was rejected.

The question being taken on the substitute offered by Mr. Evans, the committee divided and by a vote of fifty-three ayes to twenty-three noes, the substitute was agreed to.

Mr. RICKS. Mr. Chairman, I wish to offer an amendment at the end of the section, by adding the following words:

"Except such as are exempted by laws of the United States and of this State."

Mr. EVANS (Weber). I second that amendment.

Mr. RYAN. Mr. Chairman, I would be opposed to that also. It is an embodiment in many of the constitutions, but it don't seem to be necessary. The statute requires all able bodied male citizens between the ages of eighteen and forty-five. Able bodied covers everything, unless persons who are engaged in certain lines of occupation that the law would exempt them from military service, and the amendment don't cut any figure, I don't think.

Mr. RICKS. Mr. Chairman, I take it that all able bodied male citizens between eighteen and forty-five years are liable to military duty, and I cannot see that the Legislature is authorized to pass any exemption laws under that section, and we realize that certain exemptions should be made—cases of railroad engineers, telegraph operators, and other people who are employed at work of that nature should be exempt.

Mr. EVANS (Weber). Mr. Chairman, I seconded the motion of Mr. Ricks, but I did it upon misapprehension, and I desire to withdraw my support. I think Captain Ryan is right. All able bodied men ought to be required to serve when necessary.

Mr. EICHNOR. Mr. Chairman, I will second Mr. Ricks' motion.

Mr. SQUIRES. I am in favor of this amendment, because, under our present laws there are certain exemptions which I think ought to prevail, as Mr. Ricks has said, railroad engineers; it might prove a hardship in the railway service in the time when we needed every railroad engineer that was employed in the company. To take those men out and make them liable to duty it would destroy the efficiency of our railroad system in time of war. There are other classes that are exempt—physicians. Who wants to have his family physician taken away in a crisis in his family, and

sent off to military duty? And of course all who are connected with the churches oppose that because, under the present laws, the preachers are exempt from military service. I am in favor of this so that the Legislature may provide the exemption of certain classes, which I believe they would be bound not to if this section passes in the form in which it is printed.

Mr. BOWDLE. Mr. Chairman, I am in favor of this amendment. I doubt very much if the Legislature, if it passes as it stands, could exempt any one. Our judiciary officers of the State and all that class of persons certainly ought to be exempt, and in addition to that the classes that have already been spoken of. We ought to give the Legislature some power to exempt the proper persons, and therefore, I am in favor of the amendment.

Mr. MALONEY. Mr. Chairman, I am in favor of the amendment on the ground that under the law that now exists there are a great many people who are exempt. Why not allow the Legislature to exempt them by this article? I find that in nearly all the constitutions there are similar exceptions. In the constitution of North Dakota there is an exemption, I believe, precisely in the words of this amendment, "except such as may be exempted by the laws of the United States or of this State." I think it is true of nearly every state in the Union. The United States laws exempt certain classes, and we should not step beyond the laws of the Congress of the United States.

Mr. FARR. Mr. Chairman, I cannot see why we should be all the time trying to tie ourselves up. Why not leave this according to the motion of Mr. Ricks, for the future Legislature to fix? I see no impropriety in it. I do see an impropriety in tying ourselves up. I do not know why we should. We have been tying it up all along. We have been legislating all along, making laws that should be left to the Legislature—

trying to at least, and I believe we should leave such things open to the Legislature, so that they can change them from time to time.

Mr. HART. Mr. Chairman, I am in favor of this amendment for the reasons in part as have already been given. There are exemptions made by the federal laws, and there are at present exemptions made by the laws of this Territory. I think those exemptions should continue, and in addition to that, there may be some individuals who have scruples against bearing arms, and that class of persons should also be admitted under the legislative act by the payment of an amount in lieu of the service, to be exempt from this service. In fact, a great many of the constitutions of the United States make an expressed provision in their constitutions that persons who have conscientious scruples against bearing arms may be relieved from so doing by paying a proper amount. While I do not think it is necessary to go as far as a number of the states have done in making this constitutional provision, yet I would be in favor of a provision in general language such as proposed by this amendment, to permit that class of persons, and, in fact, a number of other classes, such as city, State, and county officers, to be exempt from military duty.

Mr. PETERS. Mr. Chairman, I desire to offer a substitute and leave this matter entirely to the Legislature. I think they will be perfectly able to deal with it. (Reads.)

The Legislature shall determine what persons shall constitute the militia of the State, and may provide for organizing and disciplining the same.

It simply leaves the whole matter to the Legislature.

Mr. PARTRIDGE. Mr. Chairman, I find that some of the gentlemen are very much afraid that we shall legislate in this Convention, and in taking that view of it, it seems to me they go to the other extreme. I would rather have a

little too much in the Constitution than not to have enough. I do not think we should leave everything to the Legislature. I am in favor of the section as it is proposed—this article as it has been amended.

The substitute was rejected.

Section 2 was read.

Mr. CANNON. Mr. Chairman, I move that when we arise we report this article to the Convention with the recommendation that it be adopted.

The motion was agreed to.

Mr. BOWDLE. Mr. Chairman, I move that we now arise and report progress.

The motion was agreed to.

The committee then arose and reported as follows:

MR. PRESIDENT:

The committee of the whole has had under consideration the article on public lands, and they have recommended that it be referred to the committee on education and school lands, and committee on public lands. They have also had under consideration the article on militia, and recommend the same to go on the calendar for third reading as amended.

Mr. SQUIRES. Mr. President, I move you that the article on public lands be now referred to the committee on public lands and the committee on education and school lands jointly.

The motion was agreed to.

The Convention then took a recess until 2 o'clock p. m.

AFTERNOON SESSION.

Mr. LOW (Cache). Mr. President, I move we go into committee of the whole.

Mr. EICHNOR. Mr. President, I am opposed to that motion. I think we ought to continue and clear the board of the article on apportionment and boundaries first.

Mr. BOWDLE. It takes a two-thirds vote, as I understand it, to suspend the rule.

Mr. HART. Mr. President, we passed that order this morning, as I understand it.

The president here called Mr. Eichnor to the chair.

Mr. HART. Mr. President, the motion before the house is to go into committee of the whole.

Mr. ELDREDGE. Mr. President, I am opposed to the motion to go into committee of the whole, from the fact that there is on the calendar of the Convention business, and I am in favor of taking up the business in its regular order on the calendar. Therefore, I shall call for the ayes and noes on that question, as I think it takes two-thirds to suspend the rule.

Mr. LOW (Cache). Mr. President, this morning we overlooked the point that is raised by the gentleman and went into committee of the whole, transacted some business there, and out of necessity to report back to the Convention the suggestions that were necessary to be made in the Convention, we rose and reported. I presume that then, having taken a recess until two o'clock, the only motion would be to go back into committee of the whole and resume the business that we have on hand.

The PRESIDENT pro tem. Gentlemen, the chair holds that we are now in the Convention proper, and the subject on the calendar for our consideration is apportionment and boundaries. Unless a motion is made to go into committee of the whole, and carried by two-thirds vote, the chair shall hold that that subject is now open for consideration.

Mr. CANNON. Mr. President, I oppose going into committee of the whole. I am in favor of going on with the matter which is ready for a consideration on third reading.

The motion was rejected.

Third reading of article, entitled, "congressional and legislative apportionment."

Section 1 was read by the secretary.

Mr. HART. Mr. President, I move to

strike this section out. My reason for making this motion is because I believe that it is unnecessary to make any enumeration of the inhabitants of this Territory every five years. We will have an enumeration now at the end of every decade, and I think that that is sufficient. The increase of population in a Territory like this is not so rapid as to require an enumeration so frequently as that. I think that once in ten years would be sufficient. One principal objection that I have to it is the cost of making an enumeration. I have not figured on just what the cost might be, but I believe it would be quite a large amount.

Mr. CRANE. Mr. President, I will say for the information of the gentleman from Cache, that the United States government pays for the enumeration every tenth year.

Mr. HART. I am aware of that point.

Mr. CRANE. And the State every tenth year.

Mr. HART. I am aware of that point, and I think we can get along with that enumeration that the government does pay for.

Mr. SQUIRES. Mr. President, I would like to ask the gentleman from Cache if we have not now upon our statute books of the Territory a law which requires an enumeration every three years?

Mr. HART. If the gentleman has any information on the subject, let him present the matter. I am aware that there is a law requiring enumerations, but I don't have in mind the exact year, or frequency with which the enumeration is made. Even if there is one requiring an enumeration more frequently than every ten years, I don't think it is a wise one.

Mr. SQUIRES. As a matter of fact, there is such a law upon our statute books beginning with this year requiring an enumeration to be taken every three years, together with other statistics.

Mr. EVANS (Weber). I would like to ask the gentleman from Salt Lake a question. If such is the case, why the necessity of providing for another enumeration?

Mr. SQUIRES. Well, I would wipe out the other and have this every five years instead of every three years.

Mr. MALONEY. Mr. President, the gentleman from Salt Lake will know about what the cost of taking an enumeration in this Territory would be, and they estimate it at about \$6,000. Now, I take that the enumeration taken every decade by the federal government is ample, and that the very best we can do, taxes are going to be heavier in the State than they are now, and it strikes me we ought to avoid increasing the tax in every particular if we can do so. And I hope the gentlemen here who are posted in this matter will step out and tell us what the additional cost will be to take this census. I am opposed to it on the ground of economy, and again, I am opposed to it because it is not necessary. Now, the gentleman from Salt Lake speaks of the census being taken every three years. If the Legislature passed such a law as that, I think the sooner it is repealed the better it will be for the Territory. I am opposed to spending so much.

Mr. SQUIRES. Mr. President, the taking of the census under the existing law comes in connection with taking other statistics, which it seems to me are necessary to be taken for the benefit of the manufacturing, agricultural, and commercial industries of the Territory. The additional expense of taking the census while the other information is being secured is comparatively small, and I do not suppose any gentleman would have us go on without taking the statistics, as other states are taking them and for the same purpose and with the same results.

Mr. MALONEY. Why not leave that then to the Legislature?

Mr. SQUIRES. I am perfectly satisfied to leave it to the Legislature as far as I am concerned. I cannot estimate what the cost would be of taking the census of the Territory every five years, but under the present rule the cost is put upon each separate county. It is not a State expense, but each county had to pay the expense of making its own census and statistics.

Mr. HART. Mr. President, it comes out of the people just the same, even if the county does have to pay it. I am informed by one of my colleagues from Cache County that the cost of the enumeration to that county this year is in the neighborhood of \$500, and I don't see any beneficial purpose particularly that is going to be derived by the people from that.

Mr. CRANE. Mr. President, I agree with the gentleman from Weber County and I, like him, am studying economy so far as possible in everything pertaining to the work that we have on hand here, but if the gentleman from Cache will notice, and also the gentleman from Weber, this is not operated until the year 1905, ten years from now. At that time, another apportionment may be found to be necessary in the State. It evidently will be. The probabilities are that we shall have 150,000 or 200,000 or 250,000 more inhabitants than we have to-day, and another apportionment will be necessary. The government, as I said before, takes the census every five years, or every ten years, and the State every tenth. Hence, if we take five hundred dollars to take the census of Cache this year, it is only fifty dollars a year, and it is possible it may cost that in 1905. We are following out in this section the same law that has been introduced in almost every constitution that has been built of late years. Almost every constitution has this proviso in it, and new apportionments have been made on the state census and not on the United States census. I think that this

is a very good section and should be adopted.

Mr. FARR. Mr. President, I think whenever the emergencies arise, if it is necessary to take the census of the State the Legislature can provide for that without any action on our part. I am aware that other states have established a precedent—

Mr. CRANE. May I ask the gentleman a question? The Legislature does provide, if Mr. Farr will notice—it says the Legislature shall provide by law. This is left to the Legislature.

Mr. FARR. We don't want to force them to say what shall be done. If you say the Legislature may provide by law and leave it right there, I agree with that, but we are setting the time when they shall do it. Now, the Congress provides in the census for everything that we need, and if there is anything that is not in their schedule, we can just notify Congress that we would like to have them embrace in there such and such a clause, but they usually embrace everything in that is necessary for every purpose, and I say once in ten years to do that is all that is necessary. It isn't necessary that we should go to that expense. Other states they say do it. Other states are in debt head over heels, and they are going from worse to worse. I think we ought to set an example and try and not get in debt and keep out.

Mr. GIBBS. I would like to ask the gentleman from Cache a question. Did it cost Cache County \$500 for the enumeration alone or for the gathering of the statistics as well?

Mr. HART. Both combined, as I understand it. Proportionately it would cost perhaps not quite as much, but there wouldn't be much difference to take the census alone.

Mr. EVANS (Utah). Mr. President, I hope that the amendment will not prevail. I think that the State ought to have interest enough in our resources to develop the territory of the State to spend the necessary amount of means

every tenth year to see how we are progressing. Now, gentlemen have referred to the matter of leaving it to the Legislature. I think they have not legislated very wisely upon this question. As has been remarked by the gentleman from Salt Lake City, to-day upon our statute books it provides for an enumeration and taking statistics every three years, and I think that is entirely too often. I think that the expense incurred thereby so often is more than the good that will accrue from such statistics, but I certainly think that we ought not to depend upon the government of the United States. As it provides here now, every five years we may approximately understand our position, the resources of the Territory and also as to population, and I am in favor of leaving this just as it is. I believe that it would be safer. I believe that the expense would be less than if we leave it to the Legislature.

Mr. HART. I would like to ask Mr. Squires a question, and that is what was the cost of Salt Lake County for the last enumeration?

Mr. SQUIRES. As the work isn't yet completed, it would be impossible to answer that question. It will take probably until the end of this month to complete the work in Salt Lake County. I am unable to give the figures called for.

Mr. JAMES. Can you approximate it?

Mr. SQUIRES. I should think that it would cost in the neighborhood of five thousand dollars for the work that has been done in Salt Lake County, but they have put an additional burden upon us, which won't ordinarily come that way, and that is the enrollment of the militia in the county, but altogether, I believe the expense will not exceed five thousand dollars.

Mr. ELDREDGE. May I ask the gentleman one question? I would ask whether you had any other statistic

to gather outside of enumeration and militia?

Mr. SQUIRES. Oh, certainly, we had to gather the industrial and commercial statistics. We have to gather the mining statistics of the county altogether, that of the smelting and sampling works, and others of that nature. Every industry that is in operation in this county has to be reported upon.

Mr. EVANS (Utah). And agricultural?

Mr. SQUIRES. And agricultural is a very large item of it.

Mr. BOWDLE. I would like to ask Colonel Squires a question. In your opinion, what proportion of the cost will be required for taking the enumeration alone?

Mr. SQUIRES. I should think perhaps one-third of it.

Mr. JAMES. Mr. President, if it is in order, I want to offer a substitute for the motion to strike out.

The PRESIDENT pro tem. I should hold that is out of order.

Mr. JAMES. Well, then, I move an amendment to the motion to strike out.

The PRESIDENT pro tem. The chair holds an amendment is out of order.

Mr. HEYBOURNE. Mr. President, I am not in favor of the amendment. I have had some little experience in the matter of census-taking in some of the small counties of this Territory, and if my memory serves me correctly, when this matter was first introduced into this Territory, provisions were made for it annually, and subsequently the Legislature of the Territory took the matter into consideration and tried to get the time every five years but failed, and finally got the matter revised so that the census was taken every three years. I am not in favor of leaving this matter entirely in the hands of the Legislature, from the fact that our past experience teaches us in this Territory that they have not truly grappled with this question. While I understand that there is a great deal connected with the census-taking as now established in the Terri-

tory that perhaps would not come under these provisions—for instance there is the commercial, industrial, and all this matter has to be taken into consideration by the enumerators, and it is a very costly matter, and I am of the opinion that if this section remains as it is now, provided that it will answer every purpose and that every ten years will be sufficient, and all that is necessary to keep us in touch with the nation in regard to our industrial and commercial industries in the Territory. Therefore, I hope that the amendment will not prevail and that the section as it now stands will pass.

The motion to strike out was rejected.

Mr. RICKS. Mr. President, I move to strike out the word "shall," in the first line, and insert "may" in lieu thereof.

Mr. ELDREDGE. Mr. President, I hope this motion will not prevail. I hope the word will remain where it is.

Mr. EVANS (Utah). Mr. President, I just want to say this, that if the word "shall," in the first line, be stricken out, and the word "may" be put in, you might just as well have had the other motion prevail and left it entirely to the Legislature, because that is what it will do.

Mr. BOWDLE. Mr. President, I agree with the gentleman that last spoke. If you strike out the word "shall," it does not mean anything. The Legislature would have the power anyhow; unless you make it binding upon them, you might as well strike out the whole section.

Mr. HART. Mr. President, I am in favor of this amendment; I do not believe that we ought to prohibit the Legislature in this matter, or to use the expression that my friend from Weber County has sometimes used here, tie the hands of the Legislature upon a matter that they should have the free choice of action upon. I am, therefore, in favor of the amendment.

The amendment was rejected.

Mr. JAMES. Mr. President, I move to

amend by striking out the section and inserting:

The Legislature shall provide by law for the adjustment and apportionment for senators and representatives.

The substitute was rejected.

Section 3 was read.

Mr. HART. Mr. President, I move to strike out the word eighteen, in line 1, and insert in lieu thereof the word fifteen, and strike out the words forty-five, in line 3, and insert in lieu thereof the word thirty, making it fifteen senators and thirty representatives.

Mr. ELDREDGE. Mr. President, I ask for a division of that question, and I hope that the motion will not prevail to strike out the word eighteen. This has been duly considered and agreed upon by the whole committee. It has been here and passed upon by the committee of the whole. It harmonizes with this article all the way through. Therefore I trust that the gentleman's motion will not prevail, and that eighteen will stand.

The motion to strike out the word eighteen was rejected.

The question being taken on the motion to strike out the words forty-five, was rejected.

Section 4 was read.

Mr. Peters offered the following amendment, to strike out the word "Tooele," in line 4 of the senatorial district apportionment, and insert the word "Cache," and strike out the word "one," in line 5, and insert the word "two."

Mr. PETERS. Mr. President, upon its face the apportionment looks very fair and impartial, but when we come to consider the contingency of these two counties, Box Elder and Tooele, you will find that they are very far removed. The only communication that we can have with Tooele County is by passing through Weber, Davis, and Salt Lake counties; it is true that we adjoin Tooele on the west, but the Great American desert lies in that locality, and that is fully

as insurmountable and more so than any of our mountain ranges. That is, that there is no way of passing from our county to Tooele without a great deal of inconvenience. In fact, we have no communication in that part of the country with the exception of our young men who are out in that vicinity during the winter taking care of their flocks. They probably would go from one county to the other at that season of the year.

Mr. CANNON. Isn't there a wagon road on that side of the way?

Mr. PETERS. I will answer that, there is a wagon road or trail, but there are very few who ever travel it, and the gentleman from Salt Lake, unless he had a guide, would, I am satisfied, lose his way in the desert.

Mr. SQUIRES. I would like to ask the gentleman a question. What disposition do you propose to make of Tooele County in your apportionment?

Mr. PETERS. I will come to that directly, Mr. Squires. The population of Box Elder County is wholly in the eastern part of the county; so we find the population of Tooele the same. Now, we are joining Cache. We are contiguous to that county. Our interests are identical, and according to the present apportionment, Cache really does not have its representation in the senate. In round numbers, Cache has 16,000 population and has one senator. Box Elder has 8,000 and has one representative and only a small share in the senate. Now, we take for example the counties of Millard and Juab. Tooele is contiguous to these counties. In round numbers their population is 9,500—if the population is 9,500, these two counties are entitled not only to one member in each house, but also to a member in the senate, which makes three representatives in the Legislature for a population of 9,000, while Cache with the population of 16,000 we find has four. Now, the pro rata would hardly be equal with that, and Box Elder with a population of 8,000 has

but one. By placing Tooele, which is contiguous to these counties, and their interests are identical—by placing Tooele with Millard and Juab, the total then would be about 13,000, which, as I understand, is the pro rata upon which the apportionment is made in the senate or about that—from twelve to fifteen thousand. By attaching Box Elder to Cache, the population then would be twenty-four thousand in that district, and entitle them to two senators. In other words, there would be one senator for each twelve thousand population. It would make the apportionment more equal. Besides, as to revenue representation—while that I do not hold should be any particular point in this, still it should have a consideration; in the taxable property of our county, we rank fifth in the counties—Salt Lake, Weber, Utah, and Cache, are the only counties who stand higher in the taxable values to-day, according to the report of the auditor, if my memory serves me right. Besides that, our interests there—at least present prospects are that our county will increase in population fully as rapidly, if not more so, than any other county in the Territory, except some of those lying in the vicinity of the reservation. We have a large agricultural district which is opened up to make it a fair apportionment and easily accessible. It strikes me that Tooele should be joined with those counties, and Box Elder with Cache. And while I say again that while on its face its contiguity is all right, when you come to reach it, we had just as well be joined to Juab County.

Mr. CLARK. Mr. President, I hope that the gentleman's amendment won't prevail. This matter has been thoroughly discussed in the committee, and Tooele County has very friendly feelings towards Box Elder County, and therefore would like to join with them. The gentleman said that it was quite difficult to get to the two county seats

There are railroad communications to the two and telephone, so that there are no objections to us as I can see. We join for somewhere in the neighborhood of a hundred miles of distance—our counties adjoin and our interests there are equal, and there are thousands of sheep that are wintered in the two counties, and it is very necessary in my estimation that Tooele and Box Elder should be joined. It has been the aim of the committee on apportionment to make it as nearly as possible without cutting up the counties or disturbing them, to any disadvantage, and I am in favor of the report of the committee as it now stands.

Mr. PETERS. I just merely want to ask the gentleman a question. A far as contiguity is concerned, and the communication, it may be easy, but you will admit that in order to reach Tooele County, it will be necessary to travel through these three counties that I have mentioned?

Mr. CLARK. Certainly.

Mr. PETERS. There is no other way of leaving or getting communication with Box Elder, but by passing through Salt Lake, Davis, and Weber counties?

Mr. CLARK. Yes, but you will admit that there are good railroad facilities. I don't see how there could be any objections to that.

Mr. PETERS. There is railroad communication from here to Juab County also.

Mr. RICKS. I would like to ask Mr. Peters a question. Would the travel from Tooele to Juab be any easier than it is from Tooele to Box Elder—is it any nearer?

Mr. PETERS. Well, there is no desert.

Mr. RICKS. No; but they have to come through Salt Lake, Utah, and the biggest part of—

Mr. PETERS. Not necessarily through Utah.

Mr. RICKS. On the railroad. I had something to do with making this apportionment, and I will state that my

labors in it were entirely in the interest of different sections of territory, and in making these combinations of counties and senatorial districts, we worked for the interest of those districts. As regards Tooele and Box Elder, I do not think that the gentleman from Box Elder ought to be concerned about that at all. Box Elder will never be required to go to Tooele for the reason that the population is more than twice what the population of Tooele is, and if there is any traveling to be done, it will be natural that Tooele will have to go to Box Elder to attend the conventions and other meetings that may be necessary, therefore, in that line I do not think the gentleman ought to concern himself at all. But, if we take and combine Box Elder with Tooele the combination is a natural one, and the proportion of representation of the two counties—the district being taken together being entitled to one representative to each county, and one senator, will make a representation of the district of one to 3,780 of the population, and I think that is about as near as it can be arranged. Cache County has been mentioned as being out in her proportion of representation, that is, one senator to 15,000 people, but the gentleman forgot she has three representatives for the same 15,000 people, and if he will take and add the two representations together, the three representatives in the house and the one senator, he will find that Cache has got more than she is really entitled to in proportion to her population—that is, she has one representative in the Legislature to each of 3,875 of her population, so that when we take it from all its bearings, I think that every gentleman upon this floor will concede that the representation and apportionment to representation in this Legislature is just about as fair as can be arranged—that is on that basis, and I hope that amendment will not prevail.

Mr. JAMES. May I ask Mr. Ricks a question? What estimate did you place

upon the population of Salt Lake County?

Mr. RICKS. Fifty-seven thousand and something, and her representation is as to one to 3,890.

Mr. HART. Mr. President, in view of the figures give by Mr. Peters, it does seem to me that uniting Box Elder and Cache, we give a fair representation to those two counties in the senate. I find here, Mr. Chairman, that the twelfth senatorial district, which consists of Emery, Carbon, Uintah, Grand, and San Juan, has a total population of 8,744, while the population of Cache, which has only the same representation in the senate, has just double that population. I ask, Mr. President and gentlemen of the Convention, if this is fair? Now, in the apportionment in the house of representatives, it seems to me that we have gone as far as we should go, to say the least, in giving counties representation as counties. For instance, a county of my friend Hammond with a population of something like three or four hundred—365, I think, is the population given in 1890—has one representative. Salt Lake County with a population of 58,000 has ten representatives. If you give Salt Lake County representation according to population—I hope, Mr. Chairman, that population is the principle if not the only thing that should be taken into consideration in determining representation—I don't think, Mr. Chairman, that counties, simply because they are counties, should have an extraordinary representation; I think, where there are advantages in the matter of representation that can be thrown to smaller counties, that should be done, but I think it is going too far when you consider the real differences in population and representation that this source of a system will give when carried out fully; if Salt Lake County have the same representation in proportion to San Juan, she would be entitled to one hundred and seventy-four representatives in the house of representatives, and

further, I showed you that the population in the eighth district is only one-half that of Cache County, and yet they have equal representation in the senate with us. There are other districts, that of the eighth representative district, consisting of the counties of Juab and Millard, having a total population of 9,650, only a little over one-half the population of Cache. If, Mr. President, you put the county of Tooele in the district of the counties of Millard and Juab, you would then have a representation almost as great as that of Cache.

Mr. CANNON. May I ask a question? I understood the gentleman to say the eighth representative district. The eighth representative district is Salt Lake County.

Mr. HART. Senatorial, I should say. The gentleman from Sevier, Mr. Ricks, says that Cache has the advantage of apportionment of representatives. I am unable to understand how he figures that matter out. Cache has a population in round figures of 16,000—more exactly, 15,500, and she has three representatives, that would be one representative for a little over 5,000 population, and that seems to be the basis, if there were any basis, upon which this representation to the house of representatives was fixed. But if you look all through the list you will find that there is great difference against Cache in the population. For instance, the first senatorial district has a population of 11,342. The third representative district has a population of 10,000; the fourth senatorial district, which has two senators, has a population of 11,000 to each senator, and so it goes, all through the list. The eleventh senatorial district having a population of only 11,000 people in the first place. Mr. President, I am opposed to the whole article on the ground that I believe there are too many senators and representatives provided for. I think it gives a Legislature that is altogether unwieldy; to have the house of representatives

for this small Territory consisting of forty-five members to begin with. I think that you would have better legislative work, you would have better deliberation, if you had both houses smaller than this article provides for. I believe, too, Mr. President, that we have gone a little too far in giving smaller counties—

Mr. EVANS (Utah). Mr. President, I arise to a point of order. The gentleman is arguing now the question of the numbers of representatives, the very thing that we passed on a while ago under this motion. This motion does not presume to change anything at all, and I think he ought to confine himself to the question.

The PRESIDENT pro tem. I think the gentleman is in order. The point of order is not well taken.

Mr. HART. As I was about to say, while I am in favor of giving the smaller counties any reasonable advantage that we could in that direction, I believe, sir, when you come to giving all the smaller counties in the Territory representation, based upon the sole fact that they are counties, when the basis in reality should be the population of the people, I believe that you are going too far and that you are doing a great injustice to the large counties. I submit that this whole thing is unequal, that the population, both of the senatorial districts and of the representative districts, is not equal and not fair, and should be re-arranged throughout.

Mr. SQUIRES. I am opposed to this proposed change in the report of the committee, and briefly, for this reason: That if we open this subject at this point and for the reasons given by the gentleman from Cache, and the gentleman from Box Elder, we are liable to consume as much time in the discussion of this question before we get through with it, as we have already consumed in the discussion of the woman suffrage question. I agree with the gentleman from Cache on the one proposition that

the large counties—the more populous counties, are not receiving all the consideration of this article which I believe they should have. There is but one true principle on which representation should be based, and that is an actual population, but—

Mr. CRANE. May I ask the gentleman a question? I would like to ask the gentleman from Salt Lake if he can point out one constitution that has been made in recent years wherein the basis has been made entirely on population?

Mr. SQUIRES. No; I do not think I can. But, if every state in the Union has made an apportionment leaving out of sight that bottom principle on which it should rest, it would not convince me that the principle is not correct. I would still believe that apportionment in our Legislature should be strictly upon the basis of population, and there is a strong sentiment among the members of this Convention, which we are all aware of, and that every county—even the smallest counties in population in the Territory, should have representation, and we have tried to convince those gentlemen that they are represented when they are joined with another county just the same as they are in senatorial districts, but the gentlemen won't have it that way, and when we get through discussing this question we shall come right back to the basic principle upon which this apportionment was made at the end. We shall have to accept this proposition and for that reason I am not in favor of opening the subject here and discussing every district all the way down the line. I believe in the interest of economy and of our own time and the public funds, we should stop this matter right here and vote upon this proposition and vote it down.

Mr. HAMMOND. Mr. President, I would like to say something in behalf of San Juan, if I knew how to say it, but I have got a good deal to say or

that I could say. The gentlemen seem to forget that the census was taken in 1890, now we are living in 1895. True, I believe the census was fairly and honestly taken at that date, but since then conditions have changed and an influx of immigration, through the discovery of gold down there, has brought many people to our county, and many of them are remaining there, not only working in the placer mines on the river of San Juan, where I live, but also they are working at lead mines forty or fifty miles this side of there in what is called the Elk Mountain—the grand Key, as I term it, as these mountains are whence water flows. Now, sir, to the very best and honest judgment in my mind, there are at least two thousand people there in that county, there to-day, and that class, as a class, are well adapted to pioneering, and bringing forward the resources of that county, and that portion of our Territory. Therefore, I would like to stand up in favor of each county having at least one representative in our Legislature. It met with my mind from the first proposition, although really when I left my home it was more than I expected to get. I will say that honestly; but inasmuch as the committee have labored diligently and honestly in this apportionment matter, I feel to stand by the section as it has been presented to us. Now, the gentlemen of the Convention will remember that San Juan County has been held back—

Mr. EVANS (Weber). May I ask the gentleman a question; I would like to ask what the question before the house has to do with San Juan County? As I understand the amendment offered it is in reference to Box Elder and Tooele. San Juan is not involved at all.

Mr. HAMMOND. But Mr. Hart, as I understand, was attacking San Juan; that was what I arose to.

Mr. HART. I am not attacking San Juan.

Mr. HAMMOND. Well, you men

tioned San Juan and Hammond, too, if I remember right.

Mr. HART. It was only as an illustration of the inequality of the representation.

Mr. VAN HORNE. May I ask the gentleman a question? In giving his estimate of the present population of San Juan County, I would like to know whether he includes the Indians not taxed?

Mr. HAMMOND. San Juan tells her own story. Now, since that is sprung I will answer the gentleman honestly. No, we have not attempted to enumerate our Indians, should; we do so, Salt Lake would hardly be in it. There are over twenty thousand right there on to her border.

The PRESIDENT pro tem. Please confine yourself to the question before the house. The question is on the substitute of Mr. Peters, of Box Elder.

Mr. HAMMOND. Well, I am opposed to lessening in any manner the representation as it stands in this section. I want to say further that in consequence of that Indian matter hanging over us there for so many years, our improvements have not progressed as they do usually in all pioneer and outside colonies. For years that matter has been suspended over our heads. Now, I am happy to state, it seems to have been disposed of, and the prospects are that from this time on San Juan County will grow and increase as no other county in this Territory.

Mr. HYDE. Mr. President, as a member of the committee, I desire to support their report. They gave this matter their careful attention, looked over the Territory from one end to the other thoroughly, and this is the result of their best efforts, and I hope the motion will not prevail.

Mr. PETERS. Mr. President, it appears as though the gentleman from San Juan has an idea that I attack

San Juan, as a county, but I do not desire to be understood in that any at all, nor did I intend to cast any reflection upon the relationship between Box Elder and Tooele. I realized that our past relationship with that county has been very friendly and that we have had considerable to do in the last four or five years regarding the question of boundary and so on, but I do not consider that that has anything to do with this question at all. That is a matter of justice. It is not a question of friendship, and in order to retain that friendship I think that Tooele County had better stay away from us, [laughter] and that she had better remain with Juab County, but I hold that the apportionment as we have it now is not a fair apportionment. I am perfectly willing that each county should have a representation, but we take the twelfth district for instance—

The PRESIDENT pro tem. The chair holds that is not your substitute, you should confine yourself generally to the substitute.

Mr. PETERS. I propose to show that we are not represented in the council according to this apportionment in proportion to our population, and in order to bring that out, it is necessary to refer to other counties. We take the twelfth district, with a population of less than ten thousand people, they will have six members of the Legislature. They will have one from the council district and five from the counties which are taken to make up, that which would be six for ten thousand. We only have one, practically speaking, for eight thousand. Now, this apportionment, I will admit, discriminates more against Summit County and Box Elder County, than any other two counties in the Territory, and if the apportionment committee has not already (which I think probably they have) considered the matter seriously, they will find that these

two counties are discriminated against and that they don't get a fair representation.

We could get a better representation by being joined with Cache County. They owe us a debt already. We used to be joined to them and they had the senator for some time, and now they owe us a senator for two years, and it seems to me that they are considerate of the debt and we would then get two senators. I trust that the substitute will prevail.

Mr. ELDREDGE. Mr. President, I was under the impression that the gentleman from Box Elder was a school teacher, and in that event had been more used to figures than what seems to have developed on this occasion. I find that the population of Box Elder and Tooele when added together lacks a few hundred—if you get him down to a correct proportion—of entitling them to one senator, but nevertheless they have the senator, and that each has a representative, that makes three in the assembly from those two counties, which gives them a very fair proportion of representation in the assembly when you unite the senator and the representatives, and the same argument that applies to Box Elder will also apply to the county which I have the honor to represent—Summit. I find that Summit and Box Elder are pretty near the same population, and Summit is united with Wasatch, and Wasatch and Tooele are pretty near the same population, and hence what would apply to one would apply to the other. There are some discrepancies perhaps against the more populous counties, and in favor of the sparsely settled counties, but in my judgment, that only seems to be in the line of right. Those counties that lay on the frontier are perhaps subject to be settled up faster than those more populous counties, and they should have an opportunity to be heard from at least once in two years in the legislative assembly. Now, the very first ques-

tion that was raised in the congress that formulated the Constitution of the United States was the question which came up here. It was what representation should the states have in that congress, and it was moved and carried, one of the first things, each state should have at least one representative. In that critical period, they deemed that it was necessary to give a representation that all might be heard from, and the sentiments and feelings heard from and understood, and I think it is the same way in our legislative halls, that each county should have the privilege of having a representative in the Legislature, and we do not expect that San Juan or Grand, or those counties lying along the eastern portion of our proposed State, are always going to contain the population that they have to-day. They have vast resources and they open up a vast field to invite men that are accustomed to develop them, and I feel sure that from here on those, perhaps, or some of them, will rival counties which claim to be populous now. I expect at no very distant day Uintah will come down here not under a representation of two thousand, but under that of ten or fifteen thousand, and Emery, and Grand, and San Juan, have resources which only those understand who have traveled in those sections of the country. I think that we are only presented here with what is fair and consistent to the people of the proposed State of Utah, and I hope, Mr. President and gentlemen of the Convention, that it will stand as it has been presented by the committee.

Mr. VAN HORNE. Mr. President, the gentleman from Box Elder County seems to consider that this Convention is going to act as a collecting agency for the purpose of collecting for Box Elder the debt due in a senatorial way from Cache.

The purpose of this motion has become very evident through the little expression of Cache being indebted to

Box Elder for a senator for two years, and he is unwilling to join with his friends from Tooele, apparently on the proposition that absence makes the heart grow fonder, and if they get together they won't be so pleasant. It seems to me the argument of the gentleman is summed up in those two illustrations.

Mr. GOODWIN. Mr. President, I want to call attention to the facts that last fall, in the election for delegate to Congress, Box Elder had 1,418 votes, Tooele had 850, total 2,268. Salt Lake County had 10,966. Five times 2,268 makes 11,340—making 374 more votes in those counties in the same ratio than Salt Lake. That is, the complaint is that Salt Lake has too much and these counties have too little. Salt Lake has five times as many votes as both of these counties, less 374.

Mr. PETERS. May I ask the gentleman a question? Will you be kind enough also to compare Salt Lake County with Juab and Tooele. Those are the counties I referred to.

Mr. GOODWIN. I just came in when I heard this trouble about Box Elder and Tooele. I will do that later.

Mr. PETERS. We didn't have the representation as compared with those two.

Mr. EVANS (Utah). I would like to ask the gentleman from Salt Lake if he has at hand there the number of votes cast in Juab and Millard last year?

Mr. GOODWIN. Yes, sir. Juab had 1,200, Millard had 840.

The substitute offered by Mr. Peters was rejected.

Mr. Varian offered the following amendment:

Strike out lines 4, 5 and 6, in subdivision entitled representative districts, and insert: Provided that in any apportionment, the Legislature shall apportion representatives and senators upon a basis of an enumeration of the people according to the ratio to be fixed by law.

Mr. YARIAN. I move its adoption.

Personally, I entertain the conviction that the principle underlying this apportionment is utterly vicious and wrong, but I also recognize the fact that it is in accordance with the sentiment of a large majority of this house, and to the extent that they have made the apportionment as it appears in the report from the committee, which was unanimous, I believe, I am prepared to defer and bow to the will of that majority. I am using the word majority now in the sense of a majority of the entire Convention, but I am not prepared to vote for this proposition containing, as it does, not only a vicious principle, in my judgment, but also a provision fixing it for all time, at least until the Constitution shall have been amended. I am willing to accept as the judgment of the house, represented through this very large committee and expressed by its unanimous report, the apportionment for the time at least, and if not the best, and the apportionment should be made upon the principles underlying this scheme, but I fail to see that should be continued. I fail to see why they should tie up the people of this State in the future from changing this system, if they desire to do it. There is incorporated in the article the provision that I seek to strike out and substitute another provision for as follows:

Provided, in any future apportionment made by the Legislature each county shall be entitled to at least one representative.

Now, if this shall pass, as it is incorporated here, coming from the committee of the whole, it will make no difference what may be the changes in population. Counties may be practically reduced to such a situation that they will be compelled to abandon or at least ought to be compelled to abandon county government. The representation of the State at large may, for a variety of reasons, require changes—a difference in the apportionment, and

yet with this prohibition in the Constitution, it will be impossible for the Legislature to do what they ought to do—apportion equally and justly. To my mind, this sort of ascheme is in violation of republican principles. I use the word republican of course in its governmental sense, and not at all in its party sense. I believe that the whole scheme of representation—the exercise of the functions of government by a thorough representation, is, and ought to be, predicated upon an equal representation of the people. Not the representation of the municipalities, and other quasi municipal corporations as units in the scheme of state government. A county in that sense bears no relation at all to the sovereign state in its connection with the other states of the Union. A county is simply a governmental agency, if you please, adapted in the aid of the purposes of the state government. There is no analogy whatever between the counties of the state and the states of this Union in their several relations to each other—no analogy at all in the system provided for under the Constitution of the United States giving an equal representation to sovereign states as distinct empires, units by themselves. And the argument is misleading and far fetched that seeks to draw comparisons between the two classes of cases.

Under the Constitution of the United States the principle of representation is as I have indicated. Representatives shall be apportioned among the several states according to their representative numbers, counting the whole number of persons in each state, excluding Indians not taxed. When you undertake to make an arbitrary system of apportionment which would give to three hundred people the same power, and a power equal to that given five thousand people, you overturn the system, you invade the great principle underlying it, and to that extent you do not present the republican form of government, and

you can readily see that it might be pursued to such an arbitrary and manifestly unjust extent that on its face it would exhibit the fact that the Constitution or the law representing it was not republican in form. Now, I am not prepared to say that is the case here. It is the principle that arrests my attention. I am not prepared to attack this apportionment scheme for the reason that I have given. I submit to the judgment of those present upon that question, but I protest against incorporating it in the Constitution itself, which will perpetuate it here, sir, until this Constitution shall be amended, and I ask a careful consideration of the matter in order that this amendment may be given the weight which I think it deserves. It simply provides that when a new apportionment shall be made the Legislature shall return to the principle that I have suggested and make such apportionment in accordance with the population. By that you do equal and exact justice everywhere. It does not follow because the county line makes a division between a community or a people who are represented in a Legislature that any rights are lost.

The right of representation is maintained in all its strictness and in all its purity, if it is equalized, if the equilibrium is preserved throughout the commonwealth as nearly as may be, and every man and every woman and every child entitled to the right of representation is only entitled to that right with respect to the others of the community in the like situation. You will observe if you consider the matter that this amendment does not disturb the equilibrium of this bill at all. It does not affect anything that you propose to do. It does not affect anything that the committee has passed upon, with relation to the practical question of apportionment among the people. It simply authorizes the Legislature at some future time, when the occasion shall serve, to change this system in

accordance to what I believe at least to be a just and proper principle. If that is done, I can vote for this article. If it is not done, I cannot and will not vote for it, because of my convictions in that particular.

Mr. PETERS. Mr. President, I just desire to ask Mr. Varian a question. If my recollection serves me right the section of the Constitution which he is reading from provides that the apportionment shall be based upon the population, then he goes right on to say that every state shall be entitled to at least one representative. There is a provision in the Constitution, if I recollect—whether it is in that section or not—I do not know whether it was in that, and I want to know how you would interpret that part of it.

Mr. VARIAN. If that be so, I should answer that at the time the Constitution was adopted each state under the system adopted would be entitled to at least one representative. It is possible that the gentleman has confused the question of appointing senators, which the gentlemen will remember was the great question, and around which centered the great struggle between the representatives of the states. It was the state pride, and the seeking to preserve the state sovereignty that forced that struggle and culminated as it did in the provision in the Constitution that each state should be entitled to two senators, and should never, in the future, be deprived of either of them without her own consent.

Mr. PETERS. I would like to ask a further question. I think I am correct on this. Now, the present basis of representation in the United States, if I recollect right, is 179,101. Take, for instance, the state of Nevada, with a population of 42,000 or about that. She is entitled to one representative in the lower house of Congress, but she would be barred if the question of population was the basis. That is the reason why I think that I am right in saying that

the provision guarding the house of representatives is in the Constitution of the United States. It is so long since I read it—

Mr. VARIAN. So far as that is concerned, she had a much larger population at the time she was admitted, and there were other considerations and reasons moving Congress at that time, but it was very largely in excess of what it is now, as the gentleman will remember. I do not remember the provision in the Constitution that the gentleman speaks of. Still it might be there.

Mr. CREER. Mr. President, I think I have a better authority than the gentlemen have been referring to, and later I refer to Wyoming. That is, they have representatives for each county, and no county has less than two. They also have, I think, 31 members, and only have ten counties, and have 16 senators. I think it is the best that can be done under the circumstances, and we ought to proceed with this matter and pass it as it comes from the committee. I am in favor of voting down even the provision introduced by the gentleman from Salt Lake County to remove and change the basis in ten years from now as aimed at at the present time by this committee.

Mr. CRANE. Mr. President, I regret very much that I am compelled to differ with the distinguished and eloquent gentleman from Salt Lake on this very important question, and did I not feel that I was absolutely right and that this was a just and reasonable demand by the apportionment committee, I should not now be on my feet; but, sir, in justice to the people whom I in part represent, I have a few words to say on this question, one that I think is of more importance than any other question that has been brought before this Convention. It has been intimated by some of the gentlemen who have preceded me that this will be in part a partisanship apportionment. I desire so far as I am

concerned—and I believe that I can speak for every member on the subject of apportionment, that I do not believe for one moment that a partisan sentiment, or a thought of party aggrandizement of power, entered into this apportionment in any shape or form. I believe that the demands that we have made for representatives from each and every county in this State are just and reasonable demands, that should exist between great aggregations of population, in the cities and the scattered inhabitants of rural districts in the law making branch of a representative government. I feel confident that when I quote the authorities that are before me, there is no gentleman in this Convention that will for a moment think that partisanship entered into this apportionment in any form. To test, Mr. President, whether this is a partisan measure or a partisan apportionment, we naturally and instinctively turn to the older states in the Union—

Mr. VARIAN. I would like to suggest to the gentleman that this argument does not seem to be fitting my amendment. I do not offer an amendment on the basis of partisanship. Simply object to tying this matter up for all time.

The PRESIDENT pro tem. The gentleman from Millard will confine himself to the question.

Mr. CRANE. Replying to the gentleman, I desire to say that the apportionment that has been made, and in this section that he seeks now to amend, is one that is in force in almost every state in the Union. It has been adopted by the most enlightened states, and it has been adopted by every state that has in recent years amended, changed, or altered its constitution. I desire to draw the attention of the gentleman to the states by which we are surrounded. The state of Wyoming on the east says: "Each organized county shall be represented in the state legislature by one senator and one representative, regardless of the population of such county."

Referring to the state of Montana, "Whenever new counties are created, each of said counties shall be entitled to one senator, but in no case shall the senatorial district consist of more than one county." It was deemed by the committee on apportionment—at least some of the gentlemen of that committee thought that each county should be represented by one senator. Others again thought that one senator and one representative should be sent from each county. It finally culminated in the apportionment that has been presented to this Convention, that one senator should be permitted in one of the law-making branches of the government from each county—one member. Now, turning to the older states of the Union, we have in the state of Florida, "The representation in each house of representatives shall be apportioned among the several counties as nearly as possible according to the population, provided, however, that each county shall have one representative in the house of representatives." And further, Mr. President, it also says, that no county shall have more than three representatives. Georgia with one hundred and seventy-five representatives, provides that to the six counties having the largest population there shall be three each, to the twenty-six counties having the next largest population two each, and to the remaining one hundred and five counties one each.

Maryland also, in its constitution, provides for the just relations that should exist, as I have said, between great aggregations of population, and the rural districts, that the city of Baltimore, with 433,547 inhabitants, out of a total of 1,000,000—in the distribution of its senators, each county in the state shall have one, and each of the three legislative districts of Baltimore, one, thus limiting Baltimore, that has one-fourth of the population of the state, to three senators out of twenty-four, for there are twenty-four counties in the

state. Missouri, another of the great states, with the great city of St. Louis, having a population of 450,000 and upwards out of a population of 2,700,000—that is, the population of the city of St. Louis is one-sixth of the entire population of the state, which has a representative body of two hundred members—one-sixth of which would be thirty-three, but the city of St. Louis is limited to a representation of seventeen. Turning now to some of the northern states, we find Maine divides its one hundred and fifty-one representatives, each town having 15,000 shall have one, but that no town shall ever be entitled to more than seven representatives. Pennsylvania, one of the most populous states in the Union, limits the city of Philadelphia, containing already more than one-fifth its population, to one-sixth of the power of representation in any event. Rhode Island, also, with the city of Providence, the largest city in the state, having 132,000 odd population, out of a population in the state of 345,000, limits the power of that city to one-sixth of the representation; and you might go on, Mr. President, and multiply these instances for almost every state in the Union that has offered in any way, shape or form, the apportionment of recent years, gives to each county in the state one representative. Some give one representative to the lower house and one senator. In a review of the apportionment of the state of New York last year, when I believe the new apportionment was made, the Honorable Joseph H. Choate, one of the most prominent lawyers in the United States, and an authority on all matters of this kind, makes these remarks:

It is and always has been a cardinal principle in apportionment in this state, and in every other state of which we have ever heard, where representative government exists, that every county, however small, shall have a representative of its own in the assembly. The importance of the distinct and indepen-

dent recognition of counties as separate political divisions of the state in the distribution of the law-making power has never been lost sight of and must not be now. As each new county has been organized the exercise of political power for its inhabitants has been identified with the county. Their relations with the state were defined by county lines. Their representatives, in senate assembled, have always been designated by the county name. The fixed habit, customs, and thoughts of the people have been largely county concerns, and the representation by counties in respect to state affairs. No one has ever yet suggested that in the distribution of political power in the legislature these county lines should be effaced.

I hold, Mr. President, that it is nothing but an act of justice that the counties at the extreme south of our Territory, having like San Juan, which county has been mentioned, only a population of 360 in 1890, (at least that was the population given, but which we are informed by Mr. Hammond is probably two thousand to-day,) should have one representative. It is the cheapest body that we can have. I hold that a gentleman in Salt Lake or a gentleman in Cache cannot represent the interests and the demands, the desires and hopes and aspirations of any one in San Juan County, and I trust that the apportionment made will be carried and that we shall place in the Constitution this fact, that each and every county in the State that may be formed shall always, until this Constitution may be changed, have at least one representative in one law-making branch of this government.

Mr. CHIDESTER. Mr. President, I just want to say that I believe that it takes this measure that has been introduced by the committee to make this Constitution republican in form, and I oppose the substitute on that ground. I notice that section 3 of the Constitution of the United States reads like this: (Reads). Now, according to the 14th amendment, there are some different provisions made, but it never altered or changed the spirit and meaning of this instrument. The spirit and meaning of

it are the same to-day as they were then, and in my opinion, it takes a representative from every county, at least, to make this Constitution republican in form. By reading the 14th amendment, section 2, we find the same spirit. (Reads.) It contemplates that every state shall be represented by at least one, and the larger states according to such representation as may be provided for. I take it, then, in view of the fact, that this Constitution will not be republican in form unless we have at least one representative from each county. I believe that that is the feeling and sentiment of a large majority, at least, of the members of this Convention, and that is the reason why it has been reported here, and, in my opinion, that is the reason why it should be adopted now; and, as it has been stated by the gentleman from Millard, that many of the most intelligent states have adopted a similar proposition, I say now, that another of the most intelligent states should adopt it also.

Mr. ROBERTS Mr. President, if I understand the substitute offered by Mr. Varian, it does not contemplate disturbing the present apportionment, but merely refusing to confirm for all time—to go in our Constitution, the basis of the present apportionment, in so far that each county must always have a representative in the house of representatives. But, rather assumes that the principle of apportionment guiding the Legislature hereafter shall be that which is based upon the population of the State. I favor, sir, that substitute. When the first skirmish took place upon the floor of this house in regard to the principle of county representation, I was not in favor of it, and I have seen nothing to convert me, or heard nothing to convert me to the rightfulness of that principle in this State. I believed, as I believe now, and have just received a very good evidence for my belief, from the remarks of the gen-

tleman who just preceded me, that the idea was based upon the false notion that our counties, in their relationship to the State, are analagous to the relationship of the states to the American Union, a principle or idea that I cannot for one moment accede to. The American states, at the time of the formation of the Constitution, stood in the relationship of well nigh independent nations to each other, and when the question of representation came up, they had to consider that question in the light of this fact, that those colonies whose representatives were trying to form a Constitution, establishing a more perfect union, had the right and the power to step out of the Union if they could not obtain such concessions as they thought were just. I take it, that the gentleman who last spoke will not undertake to say that our counties, now that this State government is forming, have any such power as that.

Mr. CHIDESTER. Did you understand that was the position we took?

Mr. ROBERTS. I understood the position that the gentleman took to be that the relationship of the counties to the state was the same as the states in the American Union.

Mr. CHIDESTER. No, sir; that was not the intention I intended to convey. The intention was that we were entitled to a representation, but as to the other part of the relationship, I did not enter into it at all.

Mr. ROBERTS. Mr. President, I concede that the gentleman did not carry the idea to the extremes that I have carried it. I merely carried it to the extremes that he may see the absurdity of the position of claiming for each county a representation. That is all I intended by carrying the matter a little further than he took it. I believe that the correct principle in providing representation to the house and senate of this State is, that of population, and that these subdivisions of the State into

counties ought not to enter into the consideration at all on that apportionment, and I find, sir, that in order to make this article harmonize, the change suggested by the gentleman, or proposed by the gentleman from Salt Lake, Mr. Varian, is necessary, for section 21 provides that the Legislature shall provide laws for an enumeration of the inhabitants of the State in the year of our Lord, 1905, and every tenth year thereafter, and at the session next following the said enumeration and also at the session next following the enumeration made by the authority of the United States, shall revise and adjust the apportionment for senators and representatives on the basis of such enumeration according to the ratio to be fixed by law, and now the substitute of the gentleman from Salt Lake is in harmony with that. The only other question to be considered is in answer to the remark made here upon the floor by several gentlemen that the Constitution of the United States provided that each state shall at least have one representative in the lower house of Congress.

Mr. CRANE. I would like to have the gentleman from Davis County point to me where section number 2 is not in harmony with this—lines 4, 5, and 6, of section 4. That is in perfect harmony, as I take it, because in the further apportionment made by the Legislature each county shall be entitled to at least one representative.

Mr. ROBERTS. I take it, sir, section 2 recognizes no other apportionment than upon a basis of an enumeration of the inhabitants, and does not look towards the granting of counties representation at all. Referring now to the matter that I was about to speak of, when the Constitution of the United States was framed, according to my recollection, the number of inhabitants required to secure a representative in the house of representatives was 30,000 or thereabouts, and I take it, sir, that they never contemplated that there

would be a state formed with less than 30,000 inhabitants, and hence the reason for making the provision that there should be a representative from each state. They had no idea that they would ever form a state with a population less than any number that should be fixed as granting a representative in Congress. I shall vote for the substitute.

Mr. JAMES. Mr. President, I regret to take up the time of this Convention. But I feel like saying a word or two. It strikes me as though this was a very important matter, and I feel that it is my duty to support the amendment offered by my colleague from this city. My opinion is that a proper principle of representation should be based in a state upon population, and I believe that our committee that has made this report to us has worked diligently and conscientiously and has submitted to this Convention the very best fruits of their labor. Now, the gentlemen seems to confuse what is, to my mind, a wrong principle of representation by counties, comparing them with states. The proposition to my mind is altogether wrong. Counties are frequently made out of other counties being cut up, and I suppose in many instances are abolished entirely, while these states maintain their identity, and that was the proposition before on the floor, when the states came into the Union. They came as representing nationalities of their own, which had a right to demand certain things that would maintain their independence, and that larger states could not swallow them up. There has been something said on the floor about Montana. I happened to read a letter written on this question by a late member of the Montana legislature to a member of this Convention, in which he complained about the difficulty and trouble that it had got into by adopting just what we propose to adopt here, and it comes out of this: There is no pro-

vision to prevent the creating of new counties, hence any part of the State that may become jealous of the other part of the State can go to work and make new counties as fast as they please, irrespective of population. They get representation in the Legislature. Now, it strikes me, my friends, that this is one of the greatest evils of this proposition, that it will give an opportunity to arouse dissatisfaction, and induce the doing of a wrong thing.

Mr. Peters from Box Elder has claimed upon this floor that he does not think the apportionment is fair. Mr. Hart has so argued. Now, if the gentleman from Cache is not satisfied with this representation, all he has got to do is to make two or three counties of Cache and he will increase his representation. Also, it is true of Box Elder County, and so will it be true throughout the entire State. Consequently, I shall support the amendment as offered by the gentleman from Salt Lake.

Mr. HART. Mr. President, I am in favor of the amendment proposed by the gentleman from Salt Lake. While I am willing to vote on representation in the house of representatives as now proposed by the committee, I don't think that we should absolutely make that proposition perpetual by incorporating it in our Constitution. My position in my remarks a short time ago seems to have been misunderstood by some, and in order to make the matter clear, I desire to say that when this question came up in the first contest between the committee on legislative and the committee on apportionment, while I was a member of the committee on legislative the question was whether they should have that matter in their hands. I voted to give it to the committee on apportionment, although I knew at the time that it was their desire to give as far as possible representation to the counties. I am in favor of that principle so far as the thing can be done, with

justice, to the larger counties; and with regard to the number of members that shall compose the assembly, while I have a decided preference for an assembly consisting of fewer members than the assembly that we have decided, or the house has decided to have, yet, inasmuch as their decision is to have the house consist of a certain number, I am in favor of giving the counties representation as far as possible—that is, each county a representative, so far as it is practicable and just to the other counties. My idea was that while it was desirable that each county should have a representative, that it would be possible that some of the smaller counties grouped together, some of the adjacent counties, consisting of small numbers might be grouped together, in view of the fact that an assembly should consist of a reasonably small number of representatives, and that only justice would be done to the larger counties. I would not have it understood that I thought for a moment that any member of the committee on apportionment desired to do any injustice to Cache County. I don't think so for a moment. I think that the matter has just occurred in this way, and my reason for calling attention to the inequality of representation, and my argument was that inasmuch as the counties have been represented because they were counties, throughout the Territory, that when it came to the senate the representation should be strictly upon population, and I call the attention of the house to the fact that in the eighth senatorial district, and in the twelfth senatorial district, they have just twice the representation that Cache County has, that is, those two districts together have two senators while their population is only a little in excess of the population of Cache County. I desire to say this much, that my position on this matter might be understood. I thought when the question came up of increasing the district of which Millard and Juab now

form a part, by adding Tooele to it and by adding Box Elder to Cache, that you would then have two districts with a representation that was about equal and fair to those districts. I desire to state so much in order that my position on this matter might not be misunderstood.

Mr. GOODWIN. Mr. President, I hope this amendment will be sustained or that the proviso will be stricken out entirely. It seems to me that it does no good in the article. The situation is very peculiar in Utah. It is not comparable with Montana or Wyoming, or with any other new state about us, for the reason that in those states there are no large cities, and there are very few counties that are not more densely peopled than some of ours. There is another reason. We have in this Territory an area of country, as large as New England—about the same. It would be in the power of a coming politician if he had a little money and a little forethought, to make arrangements just prior to a census being taken to have the Legislature add half a dozen counties to this State solely for the purpose of using the representatives of those counties under this rule, which it is proposed to make perpetual, for his own good. Again, if some city in a state should bring to itself or have brought to it extensive manufactories, the little jealousy which is felt in the Territory toward some of the larger towns would be immensely increased on the outside, and the disposition possibly of legislators from those counties, (because I have no idea legislators in the future will be all pure men like those we have in this Convention,) would be to make counties as often as possible. And now, really there is no sacredness surrounding the county lines. The idea that there is, has come down from the old constitutions in this country. That is altogether a dispensation that has been explained. For instance, when the government was formed, each section

had certain products which it was distinguished for. The east had navigation; there were diverse interests at work all the time, and those states grew together and acted like the boy and the tiger on the raft, waiving their differences and agreeing to float down together to a place of safety where they could fight it out. So with those several colonies, they had a common interest on the sea, but in themselves they were separate. You never heard of a Fourth of July orator in the world that did not talk about sovereign states. Did you ever hear one talk about sovereign counties? And that thing has gone on particularly to the south. If a man tells you he is from Illinois or Ohio he merely says Illinois or Ohio. If he is from Kentucky, he says, "I am from Bourbon County, sah." Or if from Missouri, he says, "I am from Pike County, sir." The counties cling to them, they seem to think those arbitrary lines means something. It was that spirit that directed the division in Wyoming so that they had to give each county representation in order to get a legislature large enough to do business. The same spirit ruled in Montana and the principle behind it all is that it is not just. There are just two things that count in this country, one is property and the other is people. We cannot come down to a property qualification in an adjustment. We have to do it by the people. For instance, with all due respect to my friend from San Juan, it takes fifteen times the population of his county to come up to that point from which senators' representation is considered. Now, is it fair to believe that if San Juan, for instance, is attached to Grand County, and they had one representative, that all their region would not be properly represented? Is it fair to believe that any other part of the Territory or of the State would oppress them? I do not think so. This Territory is not composed of counties that have grown up separately with distinct interests, each jealous of

all the others, but rather we are all growing up together and the only exception that ought to be taken is, when states get very large, their representation ought to be a little reduced, because they have the combined power and with a combined representation they work in solid compact and can do injustice if they please to a more sparsely settled country outside. I think if the amendment was adopted it would be right, or if this proviso was stricken out entirely the article would be complete as it is.

Mr. ANDERSON. Mr. President, I am opposed to this amendment. I think it is no more than just that each county should be represented. A man living in the county is better able to represent it than one who resides in another county. He understands better the wants and needs of the people of that county. Therefore, I think that is a just principle that each county should be represented in the Legislature of the State. These sparsely settled counties that have been spoken of are full of resources. They have scarcely been touched by enterprise or capital, and in a few years are very likely to be populous counties. This apportionment remains as it is until 1905, and by that time, I do not think there is a county but what will have at least five thousand inhabitants. I think that each county should have a representation, and it should be apportioned according to population; why, I would be in favor giving the county that had the least number of inhabitants, one representative, and give the others in proportion, but I hold that it is no more than just that each county should have but one representative.

Mr. VARIAN. Mr. President, it is impossible to discuss intelligently the proposition with gentlemen who will not consider fundamental principles, or who will incorporate in it misleading statements. Now, I have not had time to examine the different constitutions,

but I will undertake to say that so far as I have been permitted to examine, since the statement was made here on the floor, a few minutes ago, as to what their provisions were, they were just contrary to what you were told they were, and I don't believe—although, of course I have not examined them—that there is a state in the Union where the principle that I speak of is ignored. Now, you can take the state of New York, and I care not what Mr. Choate argued on the floor of the convention, the action of that convention was not as stated by the gentleman from Millard. The provision is that every county heretofore established and separately organized, except the county of Hamilton, shall always be entitled to one member of the assembly, and no county shall be hereafter created, unless population shall entitle it to a member. So far as new counties were concerned, the principle of representation by population is definitely affirmed in that constitution. So far as the old counties are concerned, all of them, perhaps, except the county of Hamilton, were entitled to the representative, but however that may be, it is quite evident the principle is not affirmed there as stated by the gentleman from Millard.

So in North Dakota, the provision is that the legislature may at any session re-district the state and apportion the senators and representatives respectively. So in Washington, it provides for an enumeration of the inhabitants of the state. It provides that the legislature shall apportion and district anew the members of the senate and the house of representatives according to the number of inhabitants, excluding Indians not taxed, soldiers and sailors, and officers of the army. So in Wyoming, until an apportionment of senators and representatives is otherwise provided by law, they shall be divided among the several counties of the state as designated. Of course, there is an

apportionment more or less arbitrary in its character, when it is fixed for the first time in the Constitution. But that is a very different proposition from fixing it for all time in the Constitution, tying the hands of the people through its Legislature from in the future meeting the demands of justice and the exigencies of the cases as they may arise. In Montana, you will note that the provision is that one senator shall all the time come from one county. It shall be the duty of the first legislative assembly to divide the state into senatorial and representative districts, but there shall be no more than one senator from one county. The proposition is reserved you for precedent. The legislature shall not create a senatorial district and provide for more than one senator. But it does not follow that a senatorial district must be created out of one county—that each county must form a senatorial district as would be the case if this proposition were true. I believe if I had the time that the same inaccuracy and misapprehension of these several organic laws of all the states could be exhibited, because I know that the principle underlying this has been recognized everywhere and in all places since the beginning of this government. It is just as well when you come to consider questions like this to understand what the principles underlying them are, and not undertake to formulate a scheme, and because you have formulated it, think you are called upon to defend it regardless of consequences. We have not all had the opportunity nor the privilege of taking part in the discussion of the committee; of necessity, these questions must be presented to some of us representing constituencies of hundreds—where does our right of representation come in if we are to be challenged and led upon the floor of the Convention with the proposition “that the committee has considered it? That the committee has gone through with it?” We have spoken, all of us, in committee,

and we hope that the work of the committee will not be disturbed. I am speaking for my own people as well as this Territory. I am speaking in defense of a principle that any student of constitutional history or law—any man who is at all read in the history of free government, recognizes when it is stated, and we are going to be heard upon this floor upon this question. I was willing, and am now, in view of the pronounced sentiment of this house (from the beginning it could be seen) to favor this proposition for the present, but I warn you, gentlemen, not to put this in your organic law so that it cannot be changed. If you will stop to think a moment you can imagine cases where you will encounter difficulties—difficulties arising because of other propositions limiting the maximum and minimum of the representative business—the senate and the house of representatives. Not at all unusual is it in this western country for whole counties to go down. Population is continually shifting. It is all very well to take the optimistic view and say, as you doubtless believe, that in so many years all these counties that have been named are going to grow in wealth and population. We hope so, but suppose they do not? If you adopt that principle for all time, why not include the cities? A city is just as much a community in the economy of government as a county. In fact and in law they are each of them but governmental agencies, not at all entitled as a right to a representation to a separate body, or any other representation than that justified by the population.

Mr. FRANCIS. Mr. President, I wish to ask the gentleman a question. Is not the State also an agency of the people?

Mr. VARIAN. In one sense, yes, but a state under our system of government is in some degree an independent sovereignty, where the line of demarkation between the federal gov-

ernment and state government is defined. On the state's side the state's autonomy is complete, and except as controlled by its surrender of power to the federal government it is as complete an empire in itself as any nation in the world. It is a government by itself. It does not derive its efficacy and vitality, its right to live, from the United States. It exists under it, in accordance with it, limited only in its powers by those powers which it has surrendered to the general government for the common good of all the states. There is no more comparison, gentlemen, between the state and a county—

Mr. FRANCIS. I wish to ask a question. Can we begin to live as a state without the right from the United States

Mr. VARIAN. It is difficult to discuss, as I said before, questions of this kind with those who ignore apparently all principles of federal law or state law. No state can be admitted into this Union without the consent of its people, nor without the consent of the people of the United States, represented in Congress assembled, but when the state is admitted, it takes its place in the Union of states clothed with all the powers and with all the functions of all the original thirteen states. Then it becomes a sovereign—then it becomes a state—a government, and then it occupies those relations towards the general government and the people of the United States, as I have indicated, but a county is a very different thing. It is not independent in any sense. It is simply a municipal subdivision of the sovereign state, which can be changed and modified at any time—wiped out of existence, added to or recreated at the will of the majority of the people of the state. And to say that because the state is in this Union, holding the relations that it does as an independent sovereignty within certain restrictions towards the federal government, is entitled to a certain representation—that

therefore a county—a municipal body within the state, of necessity must also be entitled to a certain representation, without reference to its population, is a confusing of matters and things that in the very nature of the case should not exist. No analogies can be drawn. The parallel cannot be made. But you cannot discuss it if gentlemen ignore the principles underlying the whole question. Now, that is the proposition involved in this scheme, but I took pains to say and I again say and affirm that it is not designed by this amendment—that it is impossible that it would be designed by this amendment to affect the equilibrium of this schedule in any degree. It does not disturb any part of your apportionment. It leaves it as it is, except that it takes off the constitutional hand of power which you would lay in restraint upon the Legislature and the people of this State for all time. Why should you do that?

Mr. CREER. I would like to ask the gentleman a question. Suppose the gentleman transfers his argument from the state organization to that of the Territory, what then? The state is subordinate to the national power, as a county would be to the state.

Mr. VARIAN. I do not understand the application. Of course there is a difference between a territory and the state. A territory is under the national government exclusively.

Mr. CREER. It has no representation.

Mr. VARIAN. In so far as Congress may yield its right of government over it locally, it has not the right of representation—a territory has not the right of representation. It has an emasculated right, or rather it is an emasculated attempt to grant a right—the assumed right of representation upon the floors of Congress of a territory. A man may go there representing the people of the territory. He may voice their sentiments before the committees on the floors of Congress if he can get an oppor-

tunity to be heard, but he has no vote. It is only half the right and the biggest half left out. But to return, Mr. President, why will this Convention refuse to loosen the strings of power? Why are you afraid to relax from this constitutional limitation this provision against your future legislatures representing the people from making an apportionment other than that you have selected for them? Why, you haven't got 260,000 people here. You are going to fix the arbitrary mandate in this Constitution that will prohibit the Legislature from fixing the right of representation. Look at it in its face. That is what this means. You are going to say to a certain extent the right of representation has been and is determined by this Convention and by the people of the present year, and you are not going to permit those who may come after you in five years or in ten years to change it. Now, Mr. President, the fair and the just way to do is to reverse this proposition. Put in your own Constitution that when the apportionment may be made after this enumeration has taken place that you have provided for, which is not required to be made I believe until the year 1905—just reverse it. Put it into the power of your Legislature, then if your people require it, and if the necessity of the place demands it, to make a different and other apportionment than you have provided for. I am not challenging now your scheme for the present. I will vote for it. It is against my own judgment and convictions, it is true, but I see no hope of changing it, but I cannot vote for it at any time if you continue in this Constitution so many questionable, unjust and arbitrary provisions as this clause in section 4. I have heard no reason advanced why it should be.

All the argument has been diverted toward the proposition in support of the scheme. When it is conceded that the scheme will go through as reported from the committee, can we not get

away from that and come to the question that I really present—simply a question of these three lines relative to the future power of the Legislature? I have shown you that these gentlemen are mistaken when they cited several of these surrounding states. I believe they are mistaken when they claim that any such power as that is withheld from the people in any state constitution, although, of course, I will admit I have not had the time to examine all these constitutions with the view of ascertaining that fact. I hope, gentlemen, that you will see your way clear to make that amendment, or, as has been suggested by another gentleman from my county, strike out the paragraph. It is practically the same thing, but in any event, let us leave it to the Legislature, after the lapse of ten years, to make such apportionment as the people of that time and of that day may demand, and in accordance with such principles as they then may wish to have.

Mr. CANNON. I would like to ask Mr. Varian a question, my position being the same as that of Mr. Varian, on the basis of representation, but I cannot understand the view the gentleman takes of the extreme evil that could follow in the allowing of this to remain. I would like to ask, if, in your opinion, it would not be true that the objection to the formation of new counties would more than counterbalance the temptation to obtain representation thereby—that is, the expense of the county government that would naturally attend? Would not that be greater and prevent the organization of counties?

Mr. VARIAN. I am not prepared to say. I will say this, however, that in my own judgment, this manner of argument in dealing with questions of organic law is utterly vicious. When men come to speculate in their own minds as to what will, or may be done, by peoples in different communities, or

what necessities may exist, or what reasons will arise on this day or the other, they are out upon an unknown sea of speculation, and we are now simply dealing with the organic law, which is restricted and prohibited in the particulars we are now discussing, and the question is whether it is necessary, under the circumstances, to tie up the hands of the Legislature, for not only ten years, but for all time, unless the Constitution shall be amended under such terms and such limitations as you may, in your wisdom, provide for before the adjournment of this Convention. I will say to Mr. Cannon, I do not believe that you can dispose of the question on the basis of expense in the forming of new counties. One county may increase in population to such an extent—two counties may increase—three may increase, others may go down. It may be necessary, in order to maintain the equilibrium of representation in the State, that an entire change shall be had, and it may be impossible that it should be done with such a provision as this here, preventing the Legislature from making the change, and confining it to one arbitrary system, at least in part, of representation.

Mr. CANNON. My position, Mr. President and gentlemen of this Convention, is I think Mr. Varian's motion is right. I have taken this position from the beginning, that representation should be on the basis of population, not of any particular area. At the same time, I cannot understand the distinction that the gentleman seems to make between the proposition as it is here and the basis of representation he proposes. I do not understand why there should be such a radical objection that the gentleman is willing to vote for the basis now proposed, and is not willing to vote for the proposition at all if this proviso should remain in, for the reason that any objection which might be found to future application to my mind

is good as to present application as well. I, however, favor the amendment and trust that it will prevail, and will vote for it.

Mr. CHIDESTER. Mr. President, I just want to call the attention of Mr. Varian to the constitution of Rhode Island, inasmuch as he has indicated that no proposition similar to this has been incorporated in other states. (Reads.) That seems to be in perfect harmony with the bill now under consideration, and I call his attention to the apportionment of Arkansas. (Reads.) It concedes that the counties shall have at least one representative.

Mr. VARIAN. Let me ask the gentleman a question. I will state that I have no doubt but the gentleman will find that in both Rhode Island and Arkansas that the counties provided for and the cities in Rhode Island provided for at the time of the adoption of the constitution, were by reason of their population entitled to a representative in Congress with the ratio established.

Mr. CHIDESTER. We have not anything in here to establish that principle, but it may—

Mr. ROBERTS. I would like to ask the gentleman a question. I followed your reading of the state of Arkansas, but I did not understand that it provided that new counties that should be organized would have representatives.

Mr. CHIDESTER. No; it makes no mention of any new counties.

Mr. ROBERTS. In that event county representation is not insisted upon in that constitution, only so far as counties already existing.

Mr. CHIDESTER. But as it contemplates the establishing of towns and counties, it also comprehends that idea, "provided, that towns and counties shall have at least one representative." And that being the fact, we could not conclude that they would think that no more towns and cities would be established. They contemplate as a natural consequence, that there would be, and

in this it provided that it always shall be the case, as in Arkansas, that they shall have a representative. Now, then, in another state here, I noticed a while ago, that they established a little different system, but they give to each county that has a fraction of the apportionment—say two-thirds, where the apportionment was made of five thousand—every five thousand inhabitants were to have one representative. It also provided that a county having two-thirds of that might be represented, so that this is not an unusual method by any means. There are some states that do not adopt it, and it would not be unreasonable for us to adopt it and take it, in view of the precedents that we have.

Mr. BUYS. Mr. President, there has been a great deal of discussion here that all should be represented—every person should be represented. Now, I take it, sir, that it is not altogether the number of people that should be represented. I think that there are interests in the counties that should be represented, just as well as the people as a whole. I take it, sir, that each county is an organization of itself, and the proposition that the counties are so much different to the states—a state is a complete organization of itself. A county is a complete organization of itself, so far as it goes. There is a county government, and that government, I take it, sir, should be represented in one house of the Legislature. There are a great many interests that belong to counties, that cannot be represented very well, or will not be represented by persons from other counties. The interests of the people generally can be represented by the representatives of the people from different counties, where two or three counties are grouped together, and if there is one house made up in that way, it seems to me, sir, that there could be no objection to letting each county have at least one representative in the Legislature—in one of the

houses of the Legislature. It seems to me that it is a narrow view to take, that because one county happens to have a little more population than another, that the county having less people should not have any representation in a legislative body. Now, the proposition of the gentleman from Salt Lake, that it was against the principle of a republican government to allow one county, or each county, to have a representation—I certainly cannot agree with him on this point and on this proposition. I think it is a republican form of government to allow each division or each government to have a representation in the Legislature, and every county has a government of its own, and this I think should be represented—

Mr. BOWDLE. I would like to ask the gentleman a question. Would not that argument apply to a precinct, as well as to a county?

Mr. BUYS. The same principle might apply probably, but I would hardly carry it that far, because it would make too many representatives and make too large a legislature, but I do not think it would be too large a legislature to give each county a representation, and the precinct organization is a part of the county organization, but the county is separate to a great extent from the state organization, while the precinct organizations are part of the county organizations, and for that reason I should claim that the county organization should be represented.

Mr. PETERS. Mr. President, I desire to ask the gentleman a question. Then, if your argument be true, that the county is entitled to a representative because it is an organized part of the state, why wouldn't each incorporated city be entitled to a member of the legislature, because it is a separate incorporation and has no connection at all with the county, as the precinct has? They are entirely separate. The county has no jurisdiction particularly over an

incorporated city, like they do over a precinct. Your argument would infer that we would be entitled to a representative from each incorporated city as well.

Mr. BUYS. I believe that principle is correct, just as Rhode Island has it, but a city is within a county where the interests of that section of country may be represented in the Legislature. The county in which that city is—the distinctive county there, can be represented by the representative of the county, whereas, where there is a separate county, and distinctive county there, that cannot have any representation—that is, there is no one from that county to represent the county, there may be a representative from three or four counties, but the representative from another county will not represent the interests of the county that has no representation. Whereas, the representative from the county will represent the interests of the city from that county. I am opposed to the amendment to this article for the reason that I think the Legislature should be restricted to a certain extent—restricted enough so that they will not make the representation or the apportionment so that a county will be left without a representative, and for this reason I am opposed to this amendment, and think it should not prevail, and will vote against it.

Mr. THURMAN. Mr. President, I represent a county here that is somewhat affected by this provision in the article. In other words, Utah County, by this arrangement, as it now stands in the article, yields something to the outlying counties, because I believe it is the second county in the Territory as to population, but I am opposed to this substitute. I believe the provision on the article is right as it stands. I believe it ought to be now, and it ought ever to be a principle of our State government, that every or-

ganized county may have its representative at least in the lower house of the Legislature. There may occasions arise which will demonstrate, to the satisfaction of every one, that in this proposition there is safety. Salt Lake City, for instance, aspires to be, and we all take pride in the fact, and contribute our mite to that end, the great city of the intermountain region. It would not require much of a bound upward for Salt Lake City, under statehood, to have a population of one hundred and fifty thousand people, while the counties on the outside might have comparatively but small increase. (That case Salt Lake City alone would control the State of Utah, and I want to say, with all due respect to Salt Lake City and its representatives, they are generally able men, and men tenacious of power and of the rights of Salt Lake City, and able to defend them, to give into Salt Lake City or any other city in the Territory, the power to control the State, (and they would control it, gentlemen representing those centers will not deny that,) I say that they oftentimes would have a tendency to forget that there was any other part of the State than that particular part of the State represented by themselves.

Mr. VARIAN. I would like to ask the gentleman a question. I believe this apportionment scheme provides for sixty-three representatives and senators; of that number, Salt Lake County is credited with fifteen. The question is, does the gentleman believe any future apportionment with the representation as it would stand, would permit Salt Lake County, whatever might be its demand, to control the State? The Legislature, composed of forty-eight members to Salt Lake City's fifteen, will have it in hand to make this apportionment. The question is, how would such an apportionment be made?

Mr. THURMAN. I will answer the question of the gentleman, as I proceed

with my argument. I believe that Salt Lake to-day has a population of fifty-two or fifty-three thousand.

Mr. CRANE. Fifty-eight.

Mr. THURMAN. What is the population of the Territory?

Mr. CRANE. 207,000.

Mr. THURMAN. 207,000. Say that Salt Lake has a population to-day of a little over one-fourth. She has representation of nearly one-fourth. If she had the representation to-day according to her population she wouldn't have over one or two representatives more at most. She should concede that much to the outlying counties. She should concede it now and concede it throughout all the history of the State. She is the great center. Everything in the Territory of Utah is tributary to Salt Lake. Everything passes through Salt Lake to get out. We meet in Salt Lake. While perhaps no man here ought to commit himself to a proposition, yet, I believe that Salt Lake is the place for the capital and it ought to be the capital, and when we meet here as representatives and senators, we find that every representative and every senator in the Legislature meets the people of Salt Lake on every turn, at every corner, at every block; we are confronted by the people of Salt Lake, and their influence is used with the representatives, not only their own representatives, of the outlying counties, and to-day she is the best represented section of country that there is in the State. She always will be, for the very reason that whenever the Legislature meets there is a power and an influence in the people wielded day by day to bring the representatives of the people over to their way of thinking. You cannot, by any system that could be devised here, deprive Salt Lake of more representation than any other section of the State will have. Now, Mr. President, I believe I represented the people of my section

in the Utah Legislature for five consecutive sessions.

I presume that is more than any gentleman on this floor can say. In those sessions I had an experience upon the very questions that we are dealing with here now. Oftentimes questions arise between the city and the outlying counties. Salt Lake was always represented by men of ability. I do not think it is within the power of any man to say that Salt Lake City has ever been unjustly treated. I believe she has always had her rights, and excuse me for saying Salt Lake City, my esteemed friend, the gentleman from Salt Lake spoke of the people that he represented, that he was here contending for their rights, and I take that he speaks of the people here. There can be no danger so far as Salt Lake is concerned. The danger must be to those remote sections of the country. Why, Mr. President, one representative from Salt Lake City can find out more about his constituents in twenty-four hours and can represent them better—one representative alone can find out more about the wants, the necessities, etc., of the people of Salt Lake than a dozen men can know and understand about San Juan. If you are governed by the principle of population alone the greatest injustice will be done. Now, Mr. President, let me present it to you in this way. It is to the interest of the centers of population to see that our counties are represented, to see that they are developed, to see that they are not retarded in their upward and onward progress, and I say that it ought to be the desire of every man in legislation to meet other men from all parts and all sections of the Territory and ascertain the wants and the necessities of the people there, because as far as the metropolis is concerned, it is now and it ever will be the great center to which the wealth of the people will flow.

Mr. VARIAN. I would like to ask the

gentleman another question. Did he understand me to contend that the people of the outside counties ought not to be represented?

Mr. THURMAN. I understand the trend of the gentleman's argument to be that they are perhaps too well represented, and he wants to some extent to leave it within the power of the Legislature to curtail the representation we propose to give them here, if they see fit.

Mr. VARIAN. If the gentleman will permit me, I disclaim any such imputation entirely. It is unfair and not called for at all.

Mr. THURMAN. I do not wish to misrepresent the gentleman, but all I have to say is this: If he is not complaining against the allowing of each county a representative in the future—if he is not contending against that provision in the Constitution, then my whole speech is out of order, for I misunderstood him from beginning to end, but I understand he wants the Constitution left so that some future Legislature if they desire may not give to each county a representative, but may give perhaps one representative to two or three counties combined if the population of those counties is such as to justify that sort of a division. Now, I think this apportionment that has been made here is just right. It is right in every particular as far as I can understand it. I tried to find something in it that was not right. I confess that it seemed to me in a party sense that it was not giving to the party to which I belonged that representation based upon the last election to which the party is entitled according to the total vote cast, but when I came to improve it and make some suggestions in view of the great landslide last fall, I have been unable to make any. It seems to me that the apportionment and everything pertaining to it is just right, and we ought to vote for it.

Mr. ELDREDGE. Mr. President, I would almost infer, after listening to the gentleman from Salt Lake comment-

ing on the proviso found in this argument, that it provided that there should be only one representative from any one county in the proposed State, but if we look into the proviso we will find that it simply provides that each county shall have at least one representative, a measure which I consider, judging from my knowledge of the inhabitants of the proposed State of Utah, to be eminently proper and correct, and just in the extreme sense of the term, when we take a broad view of the entire situation. If we are going to look at the principle simply through a tube and place the eye upon the object directly before us, we might then concur with the gentleman from Salt Lake in his opinion, but when we lay down the tube and take a broad view of the entire commonwealth, I cannot see but what the proposition is eminently proper. The gentleman inferred that there had been misrepresentation in regard to the citations from other constitutions. I wish for a moment to call attention to a few of the constitutions that are adopted by the states immediately surrounding us. We will not go clear off into Maine or down into Florida, but we will take those that we are immediately surrounded with. I read from the constitution of the state of Montana, that whenever new counties are created, each of said counties shall be entitled to one senator and in no case shall a senatorial district consist of more than one county.

Mr. VARIAN. That is not correct.

Mr. ELDREDGE. And I also have a letter here from James H. Millan, commissioner of the state of Montana, dated March 14, in answer to some questions propounded to him by the Hon. Charles Crane, reading thus:

When the state constitution was adopted one senator was provided for each county, and that provision still continues.

Mr. VARIAN. What are you reading from?

Mr. ELDREDGE. I have the constitution of the state of Montana.

Mr. VARIAN. This is the book of constitutions here.

Mr. ELDREDGE. I would be as inclined to accept the pamphlet that the state has put out as I would the book the gentleman has brought here.

Mr. VARIAN. That was not to interrupt you, but to show you that I was misled by that.

Mr. ELDREDGE. I would call attention to the constitution of the state of Idaho also. (Reads.) We will now look to the east and we will consult Wyoming upon this proposition. (Reads.) It goes on and states that each county shall not only have one representative, but shall also have one senator.

The gentleman put a great deal of stress upon the idea or supposition that this committee had sought to prevent a fair discussion of this question that is now before them. I just wish to state for the information of the gentleman, that so far as I am aware they have entertained no idea of this kind. At our convening this morning, this article was the first on the calendar of the Convention, and should, in its regular order, have been taken up then, but the gentleman from Salt Lake came over to me and suggested that the gentleman wished to speak upon this proposition or upon this article, or wished to be heard upon the article, to use his own language, and therefore that he would like to have it go over until the gentleman could be present. I consented readily for it to be carried over the morning session and go into committee of the whole and transact business that was upon the committee of the whole calendar, realizing that there would be no time lost by that means, or there would be no injury done to anybody by waiting, because I have always endeavored to make it a rule to follow out that principle that I would do unto others exactly as I would like to be done by

under like circumstances, and if I had been absent and wished to have been heard upon the proposition, I would have felt that I was unduly treated by my colleagues if they had not extended me that privilege, and therefore I yielded upon that occasion in order that the gentleman might be present, and I think it was unfair for him to charge that we had sought to prevent him from being heard upon this proposition.

Mr. VARIAN. I do not believe I did. I did not.

Mr. ELDREDGE. The gentleman also stated that it was almost useless to argue the question when people ignore fundamental law. Now, I do not know, Mr. President and gentlemen, as I could answer this in any better way than I could to tell an anecdote. I read of a circumstance which occurred in court that run about like this; there was a difficulty existing between two farmers and they brought in an employe and put him upon the witness stand, and it so happened that he was an Irishman (this nationality of course must take all of those kind of things), and in order to test the intelligence of the witness they asked him a great many questions concerning the farm and the work upon the farm, etc. He passed over them very satisfactorily, and finally the attorney, feeling as though his words in that direction were almost to no purpose, discovered a horseshoe upon the table that was used for a paper holder. He took up the horseshoe and he says, "Pat, what may this be?" Pat took the horseshoe and turned it over and looked at it a moment, and he says, handing it back, "Please, sir, I don't know." "Why," the attorney says, "It is a horseshoe." Pat says, "A horseshoe. Faith, if your honor please, what a fine thing an education is. A poor fellow like me would not know whether it was a horse's shoe or a mare's shoe."

Now, in ignoring fundamental princi-

ples I do not know how to illustrate it in any better way. I consider that this proposition is eminently just. I think that the counties of this Territory should have representation in the legislative assembly of the proposed State, and in order to secure that beyond question, this proposition was inserted in that article, and we hope it will prevail.

Mr. RICKS. Mr. President, I move the previous question.

The previous question was ordered.

The PRESIDENT pro tem. The question recurs now on the amendment offered by Mr. Varian.

The amendment was rejected.

Mr. VAN HORNE. Mr. President, I propose an amendment to the proviso; in the fifth line after the word "county" insert the words "now existing." The reason—

Mr. EVANS (Utah). Mr. President, I move we adjourn.

The PRESIDENT pro tem. The motion is out of order. Mr. Van Horne has the floor.

Mr. VAN HORNE. The reason in brief for my making this suggestion is that it seems it would cover the difficulty that has been anticipated, and at the same time would do away with any claim that we were desiring to change, that the Salt Lake County members were desiring to change the basis of representation. This apportionment at present is entirely fair to our county—the most populous county, but you can readily see that if the limitation is put upon the members, that it shall be the maximum number of the house of representatives, at ninety, and the twenty-seven counties of the Territory should be subdivided in such manner that there would be eighty counties instead of twenty-seven, and this provision remains in the Constitution, it would perforce put a county of one hundred thousand inhabitants to a level with counties of perhaps less than one thousand. This amendment will

do away with any difficulty of that sort. It will prevent the creation of counties for the purpose of getting extra representation over what is now established, and I think it might just as well be passed in that way.

Mr. EVANS (Utah). Mr. President, I move we now adjourn.

The motion was agreed to and the Convention then, at 5:32 p. m., adjourned.

THIRTY-EIGHTH DAY.

WEDNESDAY, April 10th, 1895.

The Convention was called to order at 10 o'clock a. m. by President Smith.

Roll call showed a quorum present.

Prayer was offered by Rev. A. M. Martin of the Swedish Lutheran Church.

The journal of the thirty-seventh day's session was read and approved.

The following petitions were presented, asking that the question of woman's suffrage be submitted as a separate article to the vote of the people.

File No. 223, signed by C. H. McCoy, of Salt Lake, and 48 others, by Hill, of Salt Lake.

File No. 224, signed by Mrs. J. T. Donnellan, of Salt Lake, and 38 others, by Whitney, of Salt Lake, by request.

File No. 225, signed by C. W. A. Snell, of Salt Lake, and 208 others, by Van Horne, of Salt Lake.

File No. 226, signed by A. W. Smith, of Salt Lake, and 67 others, by Eichnor, of Salt Lake.

File No. 227, signed by Wm. L. Treweek, of Summit County, and 24 others, by Kearns, of Summit.

File No. 228, signed by L. E. Cammole, of Summit County, and 175 others, by Kearns, of Summit.

File No. 229, signed by H. S. Townsend, of Summit County, and 300 others, by Kearns, of Summit.

File No. 230, signed by W. M. Gerard, of Taylorsville, and 30 others, by Haynes, of Salt Lake.

File No. 231, signed by J. L. Taylor, of Farmers' Ward, and 71 others, by Bowdle, of Salt Lake.

File No. 232, signed by John Wall, of Santaquin, and 47 others, by Halliday, of Utah, by request.

File No. 233, signed by J. F. Farrer, of Emery County, and 21 others, by Howard, of Emery, by request.

File No. 234, signed by W. H. Streeper, of Centerville, and 74 others, by Roberts, of Davis.

File No. 235, signed by Joel Shomaker, of Manti, and 99 others, by C. P. Larsen, of Sanpete.

File No. 236, signed by B. G. Raybould, of Salt Lake City, and 404 others, by Squires, of Salt Lake.

File No. 237, signed by E. E. Stuart, of Millard County, and 65 others, by Crane, of Millard.

File No. 238, signed by Andrew Corry, of Iron County, and 70 others, by Heybourne, of Iron.

File No. 239, signed by W. H. Sells, of Salt Lake, and 29 others, by Squires, of Salt Lake.

File No. 240, signed by M. H. Darrow, of Moab, and 41 others, by Peterson, of Grand.

File No. 241, signed by E. Miller, of Castle Gate, and 58 others, by Sharp, of Emery.

File No. 242, signed by W. W. Wiscomb, of Salt Lake, and 29 others, by James, of Salt Lake.

File No. 243, signed by H. P. Larsen, of Ephraim, and 150 others, by Lund, of Sanpete.

Ordered filed.

Mr. LOW (Cache). Mr. President, I hold in my hand a petition from the residents of Smithfield, Cache County, and as it was sent to me this morning with a communication attached to it, I desire to present it by request. I would not take the trouble to do so, were it not that it is a most emphatic

expression of the sentiments of the people of that precinct.

The secretary then read as follows:

Petition for the separate submission of an article on woman's suffrage. No signatures. [Laughter.]

Mr. LOW (Cache). Mr. President, I stated by way of introduction that it was the most emphatic expression of the sentiments of the people of that precinct, on the part of my constituency, after it had been thoroughly canvassed.

Mr. VARIAN. Mr. President, I move that the petition or the non-petition be returned to the gentleman. Certainly it is in contempt of this house.

Mr. CHIDESTER. Mr. President, I understand that there is a letter accompanying that petition.

Mr. VARIAN. As it appears now, Mr. President, a blank paper is presented by a gentleman stating that the blank represents the minds of his constituents. [Laughter.] It is either a contempt of the privileges of this house or it is in derogation of the rights of the people. In either case, it ought to be returned to the gentleman.

Mr. LOW (Cache). Mr. President, the blank petition has been forwarded by my constituency, with a note attached, which is now attached to it, that they should present it for signatures and return it to their constitutional delegate for presentation in this Convention. I have no other way of disposing of it than to place it at the disposition of the gentlemen of this Convention. Therefore, I have placed it with a communication attached to it in the regular order.

Mr. ROBERTS. Mr. President, I would like to ask if the gentleman has ascertained that that matter was submitted to the people or did the person to whom it was mailed merely return it?

Mr. LOW (Cache). He says it does not conform with our delegate's voice in the Convention; therefore, we return it. I presume a number of them were

consulted on the matter and the parties to whom it was sent returned it.

Mr. ROBERTS. Mr. President, it is, however, a presumption. I would like to hear that read. I take it that that is an insult to this Convention, and I think that we ought to know just what that business is.

The secretary then read.

Mr. EVANS (Weber). Read the letter that is enclosed.

The SECRETARY. I have no letter here, Mr. President.

Mr. VARIAN. I would like to ask, Mr. President, if the endorsement on that paper was prepared by the gentleman, or whether a member of this house, representing that constituency, endorsed it?

Mr. LOW (Cache). That was endorsed by Mr. Low of Cache.

Mr. VARIAN. I still insist on that motion, that it be returned to the presenter.

The motion was agreed to.

Mr. Chidester, of Garfield, presented file No. 245, petitions from Washington, Box Elder, Morgan, Sevier and Sanpete counties, containing two thousand one hundred and eighty-nine names, asking that an equal suffrage clause be placed in the Constitution.

Ordered filed.

Mr. LUND. Mr. President, I would like to ask a question. Before these petitions are referred to the committee, may any member have a right to scan them through and see what names are upon them? I hold in my hand a petition from Ephraim, Sanpete County, signed by H. P. Larsen, and 150 others, voters, and our best citizens, asking that woman's suffrage be submitted to the people in a separate article, and also a letter from our mayor as follows:

Be it resolved by the citizens of Ephraim, in mass meeting assembled, that the question of woman's suffrage be submitted to the voters as a separate article apart from the main body of the Constitution.

Adopted unanimously

PETER THOMPSON.

Mayor of Ephraim.

The PRESIDENT. I know of no reason why any gentleman may not investigate these petitions.

Mr. THURMAN. Yes; we would like to investigate a little. We are thankful for that suggestion of the chair.

Mr. James presented a petition, asking that the question of woman's suffrage be submitted to a separate vote of the people, signed by W. W. Wiscomb and 33 others.

The article entitled congressional and legislative apportionment was then taken up and the third reading proceeded with as follows:

Mr. BOWDLE. Mr. President, I believe there is an amendment pending, is there not?

The PRESIDENT. Yes, sir.

Mr. BOWDLE. I would like to make a motion to strike out the proviso and the amendment thereto. (Section 4.) That would leave the whole question then open to the Legislature. I was heartily in sympathy with the sentiments expressed yesterday by the gentleman from Salt Lake, Mr. Varian, upon this question, but the Convention seems to think that we ought not to take that step. The step that I now propose by this amendment is to leave it with the Legislature. If the Legislature in the future wish to keep the representatives as they now are, one from each county, they can do that, but if there should come a time in the history of the Territory that the Legislature would deem it advisable to change that apportionment, they have the power to do it. I admit that representation ought to be upon the number of the population.

Mr. EVANS (Utah). Mr. President, I wish to rise to a point of order. This amendment has the same effect exactly as the amendment that we killed yesterday, and I think to go into this question and take up the time of this Convention for two hours, which will result in the same thing that it did yes-

terday—we ought not to do it. It is an equivalent motion.

Mr. BOWDLE. Mr. President, the question that we discussed and decided yesterday was this: That when an apportionment was made it should be according to population and this amendment does not mean that. This amendment leaves it with the Legislature. The Legislature can leave it one from each county or according to population.

The PRESIDENT. The chair is of the opinion that the point of order is not well taken.

Mr. THURMAN. Mr. President, if the question we discussed yesterday was not to leave it to the future Legislature to determine, was there anything in the proposed amendment about population?

Mr. BOWDLE. That was not the question we discussed yesterday. The question we discussed yesterday was that it should be according to the population.

Mr. THURMAN. That was not the motion; that was the trend of the argument, but the motion was to leave it to the Legislature.

Mr. VARIAN. The motion was to strike out and insert first. That is a very different proposition from moving to strike out alone. The motion to strike out was accompanied by the motion to insert, which included this proviso, "the Legislature shall apportion." It was mandatory direction that when it did apportion it should apportion according to the population.

The PRESIDENT. Mr. Bowdle has the floor.

Mr. BOWDLE. So that you will see that the question decided yesterday was not this question at all. Until the Legislature shall take some action, if this motion prevails, there will be one from each county, but it leaves it in the power of the Legislature to determine whether there ever shall be a time when there shall not be one from each county. Now, we heard a great deal of talk here about leaving things to the

Legislature. This is a thing that ought to be left to the Legislature. We cannot look down through all time and determine what may be or what may not be the condition of these counties. It may be there will come a time (which I hope never shall) that some county would see that it was unfair and unjust, and the counties all through the Territory should see the same thing, for them to have a representation. Take the county spoken of yesterday, San Juan, with 375 population in 1890. Now it has gone up, the gentleman says, to 2,000. Suppose the reverse should take place and instead of 375 they should be reduced down to 25. We do not believe that it ever will be so, but suppose it should be so, it would then leave it for the Legislature to determine whether a county of that size ought to have a representation or not. I am willing and perfectly confident that the right would be done by leaving it to the Legislature. The outlying counties will have their one member in every case here to determine this question. When the question will come up for determination every county, as it now stands in this Territory or coming State, will have one member in that body that will determine that question. Is it not safe then to leave it for that body to determine?

Mr. THORESON. Mr. President, I am opposed to striking out the proviso here and leaving it for the Legislature, for the reason that this Convention by a large majority have already voted against a proposition of that kind. I also notice that when the larger counties, especially the county in which we find ourselves located at the present time, cannot get a certain proposition through this Convention, they always want to switch off to the Legislature, thinking that perhaps they can manipulate the Legislature better than they can the Convention.

Mr. BOWDLE. In what case has that been true?

Mr. THORESON. In several.

Mr. BOWDLE. Can you name one?

Mr. THORESON. Yes, sir; the one that you are now supporting.

Mr. BOWDLE. Well, any other?

Mr. THORESON. I think, gentlemen, after we have decided on the representation for the various counties we ought to stay with it, and I do not think any future Legislature will improve it—these larger counties conceding largely to the smaller ones and aiding them in their struggles. I admit that our county is not getting a fair representation. I admit that Salt Lake and these larger counties are not, but I tell you that we depend to a great extent on these smaller counties that are undeveloped yet. We expect to send our sons and daughters into these counties to make homes there, and we want them to be represented in the Legislature of the future State, and I am willing to concede, and I believe this Convention will concede, these privileges that we have given to these counties, and retain this article as it is reported by the committee. I hope it will be voted down.

Mr. BUYS. Mr. President, the gentlemen will find that if this motion should maintain and this is left out, that section 2 will accomplish the same object that was voted down here yesterday, for in section 2 it says, that every five years an enumeration shall be made by the Legislature, and that the representation on the basis of such enumeration shall be fixed by law. If this should be left out, then the Legislature must apportion every five years according to the ratio fixed by law, and the same result would be obtained that the gentleman from Salt Lake sought to obtain yesterday, when it was voted down.

Mr. HART. Mr. President, I understood Mr. Van Horne or some gentleman, last evening, to move as amendment that a certain word would be inserted, which would give the counties the representation provided for in this

article. I ask whether that is pending or not?

The PRESIDENT. There is a proposed amendment by Mr. Van Horne now pending.

Mr. HART. Then, I ask for the vote first upon the amendment of Mr. Van Horne. That is a question of order that has come up several times before, and I thought it was pretty well settled. I am in favor of the amendment of Mr. Van Horne, which will give to the counties the representation that they now have. If it is going to be the judgment of this house that we should have a house of representatives consisting of forty-five members, then I am willing to vote for each county to have one representative—for these counties that now exist, but I would not be in favor of going further and permitting new counties, however small they might be, and perhaps created hereafter for the very purpose of getting representatives—I would not be in favor of the proposition which would make it possible for an arrangement of that kind. I call for the vote first upon the amendment of Mr. Van Horne. I do not think there is any question but what that is the proper order, for the reason that we are virtually sending a measure that is imperfect to its grave. We are sending it to account with all its imperfections on its head. Perhaps the friends of that proposition should have a right to perfect it and get it in the best shape before striking it out, because some individuals who would vote to strike it out would not do so if it were in the best possible form.

Mr. FARR. Mr. President, I am quite in favor of the motion to amend this. The preceding paragraph says:

Until otherwise provided by law, representatives shall be apportioned among the several counties of the State as follows:

I do not wish to make any argument, as it has already been made by the gentleman making the motion. I think it

is much better to leave it to the Legislature and not to tie them up.

The roll was then called on the motion of Mr. Bowdle, with the following result:

AYES—28.

Bowdle	Page
Brandley	Peterson, Sanpete
Button	Pierce
Coray	Preston
Emery	Roberts
Farr	Ryan
Goodwin	Sharp
Green	Shurtliff
Haynes	Squires
Hill	Stover
James	Symons
Kiesel	Van Horne
Lambert	Varian
Lund	Wells.

NOES—66.

Allen	Larsen, C. P.
Anderson	Lemmon
Barnes	Lewis
Boyer	Lowe, Wm.
Buys	Lowe, Peter
Call	Low, Cache
Chidester	Maeser
Christianson	Maloney
Clark	Maughan
Corfman	McFarland
Crane	Miller
Creer	Morris
Cunningham	Moritz
Cushing	Murdock, Beaver
Driver	Murdock, Wasatch
Eichnor	Murdock, Summit
Eldredge	Partridge
Engberg	Peters
Evans, Weber	Peterson, Grand
Evans, Utah	Raleigh
Francis	Richards
Hammond	Ricks
Halliday	Robertson
Heybourne	Robinson, Kane
Howard	Robison, Wayne
Hughes	Snow
Hyde	Spencer
Johnson	Thompson
Jolley	Thoreson
Keith	Thorne

Kearns	Thurman
Kerr	Warrum
Kimball, Salt Lake	Williams.

ABSENT—10.

Adams	Mackintosh
Cannon	Nebeker
Gibbs	Strevell
Ivins	Thatcher
Kimball, Weber	Whitney.

EXCUSED—2.

Hart	Larsen, L.
Lost.	

During the roll call the following remarks were made:

Mr. HART. Mr. President, I ask to be excused from voting, for the reason that I would like to vote on the other proposition. I am opposed to the proposition as it stands, but with the amendment of the gentleman from Salt Lake, Mr. Van Horne, I am willing to vote in favor of it.

Mr. L. LARSEN. Mr. President, if there is no objection, I would like to withdraw my vote on the motion. I am in the same position as the gentleman from Cache.

The PRESIDENT. The question is now on the amendment of Mr. Van Horne.

Mr. SQUIRES. Mr. President, before a vote is taken on this, I just wanted to say one word. I want to call attention to one feature of this article. As I understand it, we are limited now for ten years by this proposition to a Legislature composed of 18 senators and 45 representatives. Now, if the proposition stands without this amendment and new counties are constructed in the meantime, those counties must each have a representative and those representatives must be taken from the larger counties. I do not see any other way out of it. We are limited to 63 members of the Legislature.

Mr. CRANE. Five years.

Mr. SQUIRES. I do not so understand it. The chairman of the committee puts the construction on it that this apportionment may be changed in

five years. My understanding of it was that it would not be changed until 1905. Now, if it is the understanding that it is only five years, that should be plainly stated, but I want to call attention to that one feature of it, that if new counties are created between now and 1905, they must have a representation under this section, and where is it to come from? We are limited by the article itself to 63 members of the Legislature. I believe that this amendment should prevail so that if any new counties are made between this time and the time of the new apportionment, they will have no representation in the Legislature, except as they are represented by the districts as already prepared in this article. I think that this amendment should prevail.

Mr. CRANE. Mr. President, I do not understand how a new county can be formed except by an act of the Legislature, and then, as I understand this section here, it must be done immediately following, or is supposed to be done immediately following an enumeration, either by the State or by the national authorities. In 1900—five years from this, we have an enumeration by the government. Then new counties can be formed. We shall have one in 1905, and then new counties can be formed.

Mr. SQUIRES. Do I understand the gentleman to mean that under this section, you are providing for the organization of new counties? I thought that this referred simply to the organization, of representative and senatorial districts and not to the organization of counties.

Mr. CRANE. We do not provide for the organization of new counties at all, but it provides, after the enumeration, for the new counties being formed. The Legislature then may apportion new counties or may give a certain portion of the counties now existing a new county government, and this provides

here, as I understand it, for representation from those counties.

Mr. ROBERTS. Mr. President, do I understand that no new counties can be formed until after the enumeration provided for in that article?

Mr. CRANE. By no means, because it provides here in the representative districts that in any future apportionment made by the Legislature each county shall be entitled to at least one representative. As soon as a new county is formed, as I understand it, there will be one representative from that county. That is mandatory.

Mr. SNOW. Mr. President, I am opposed to the amendment offered by Mr. Van Horne. I am opposed to it upon principle. It is the same motives that have actuated me all the time in favoring county representation. I am sorry to see men here who feel that the Legislature would be made cumbersome, because of the creation of an additional county and an additional representative. I take it, that wherever a county is large enough, and populous enough, and has wealth enough to form a county, it ought to be entitled to representation. My principal reasons for this are, that no county can get good representation when it is coupled with another county, and is compelled to be represented by a person who perhaps lives in another county. We have had enough of that kind of representation in the last few years to show us the fallacy of it. For instance, I have a case in mind in which, in the last Legislature but one, Washington County had a very valuable slice of land taken from it, without a particle of justice in it, simply because another county wanted it and not because there was any good reason for it at all. Our representative represented both of these counties. He was powerless to act in the premises. He simply passed it over in the hands of strangers, who decided it without knowing anything of the merits of the question whatever, and I call attention

to the fact that these same differences over county lines have existed in almost every Legislature that has ever met in this Territory. It is a continuous thing. There are always conflicting claims of one kind and another between the constituents of different counties, and when a man is compelled to represent both of those counties, he cannot do it. He is *non est*. He is worse than a nonentity, because then they have no representation at all. Out of sheer delicacy, he does not wish to act, because if he acted in favor of one he would offend the other. And another thing, if a man is a candidate for representative, where there are two or three counties forming the representative district, why the representatives of this district, if they have any pet schemes or any hobbies, they want to know how that representative stands on these questions before they vote for him. They may want a slice of some other county and it is perhaps the county he hails from. He is placed in an embarrassing position. I take it that if every county is given a representation, he can then act and speak for his constituents in whatever interests them. And there are a great many things that interest every organized county in this Territory. Legislation directly affects them in all their occupations, and they ought to be entitled to representation and a voice. I am opposed, therefore, upon principle, to the amendment offered by Mr. Van Horne. It is no satisfaction to me to give the existing counties a representative and bar any future county that may be created, because I think those counties of right are entitled to representation.

When we think that the Legislature is the great storehouse, the great commissary that is going to parcel out the benefits to this Territory, make all the appropriations and levy the taxes, and place all the burdens upon the people, I think that ought to be a sufficient argument to give each county a representative. Now, I wish, while I am on

my feet, to deny the insinuations that have appeared in a morning paper, and that have appeared time and time and again, that the democratic members of the committee on apportionment have been taken in by this bait of county representation. I want it understood that we have been just as ardent for that from the beginning as any of the members of the other party in this Convention, and we have not been influenced by any improper motives whatever, but we have tried to deal fairly and justly in this apportionment, recognizing contiguous counties and counties that have intercommunication and business relations with each other where they could get together, where they naturally lie and have roads intermingling, and intercommunicating with each other, where it would be easy of access. We have taken these things into consideration and have consulted members from every county and from every delegation in this Convention, and we have not acted from selfish or improper motives. It is true that this apportionment is not all that I would wish it. It is not perhaps as favorable to the party to which I belong as I would like to have it, but on the main, I think it is just, I think it is humane, and I deny the insinuations that have been cast upon the minority of that committee, who are the members of the party to which I belong. I wish to set myself and my confreres right on this proposition. I am opposed to the amendment, and I hope it will be voted down, as it should be.

The PRESIDENT. If the amendment prevails, the section will read as follows:

Provided that in any future apportionment made by the Legislature, each county now existing shall be entitled to at least one representative.

Mr. THURMAN. Mr. President, I suggest that there is something in the proposition submitted by Mr. Squires, the gentleman from Salt Lake. I do not

know whether it strikes the Convention or not. I do not think we ought to do anything that will raise a doubt, but in section 3 of the article, it is provided, "the senate shall consist of 18 members, and the house of representatives of 45 members," making an aggregate of 63 members in the joint houses. Now, in this proviso that we are discussing it provides that each county shall be entitled to at least one representative; should a new county be created the number of representatives will be increased or a member will be taken from the central counties. I do not think that would be right. While I am in favor, as I said yesterday evening, of every county having one representative at least, I am not in favor, in order to give new counties representatives, of taking them from Salt Lake, Utah, Cache, or Weber, or other counties that have more than one. I think that that is doing enough as it now stands. And I call attention to the matter in addition to what Mr. Squires has said, that it will leave a conflict in the instrument. In one place, we will have the limit of representatives 45, and of senators 18, in another, in the event of creating a new county, we will give an additional representative, and we must either provide for adding to this 63, for every county created, or we will have to take from these counties that are already complaining if they have not—

Mr. BUYS. May I ask the gentleman a question? Is not this proviso in section 3, "the Legislature may increase the number of senators and representatives," sufficient for that purpose?

Mr. THURMAN. I believe the gentleman is right. I think that that answers my objection. I am ready to vote against the proposed amendment.

Mr. RICHARDS. I desire to ask the gentleman from Salt Lake (Mr. Squires) a question. I had not the advantage of being present yesterday to discuss, nor do I know what amendments were

made to this article, but I understood the gentleman to say that the Legislature were limited in their power to act to the times when the census was taken; am I correct in that?

Mr. SQUIRES. As to re-apportionment?

Mr. RICHARDS. Yes, as to re-apportionment—the creating of new counties and the increasing of the number of the Legislature?

Mr. SQUIRES. Increasing the senatorial and representative districts, they are certainly held by this section, but there is nothing here in regard to counties. What the amendment contemplates is that if new counties shall be created, it will be left to the Legislature to say whether they shall have each a representative.

Mr. RICHARDS. What I desire to ask is what portion of this article is it that would prevent a Legislature from increasing the number of representatives at the time that it created a new county?

Mr. SQUIRES. My attention was just called to it. I had not noticed that section.

Mr. HART. Mr. President, if this amendment should prevail, it will not prevent the Legislature, as I understand it, from giving a new county a representative when it is created, if the Legislature thinks it would be just to do so, but if this amendment does not prevail it would be obligatory upon the Legislature to give that new county a representative, regardless of the amount of population. It might be smaller than some of the smallest counties we have now—small counties, which in their present position promise to grow rapidly in population, and I am in favor of the amendment.

Mr. BUYS. Mr. President, I would like to ask Mr. Hart a question. The statement that it would be obligatory upon the Legislature to give a representative to the county—would that be so until a future apportionment was made? The proviso is that in any

future apportionment made by the Legislature, each county shall be entitled to at least one representative, and it provides that the apportionment shall be made at the enumeration, and until the enumeration is made, I do not think it would be obliged to give a representative.

Mr. HART. The gentleman is possibly right. There is a chance for a difference of opinion on this. The county when created would be entitled, from the mere fact that it was created, to one representative.

The roll was then called on the amendment offered by Mr. Van Horne, with the following result:

AYES—34.

Bowdle	Lambert
Brandley	Larsen, L.
Button	Lowe, Peter
Coray	Lund
Cushing	Page
Eichnor	Peterson, Sanpete
Emery	Pierce
Gibbs	Roberts
Goodwin	Ryan
Green	Sharp
Hart	Shurtliff
Haynes	Spencer
Hill	Squires
Hughes	Stover
James	Symons
Kiesel	Van Horne
Kimball, Salt Lake Wells.	

NOES—65.

Allen	Lewis
Anderson	Lowe, Wm.
Barnes	Low, Cache
Boyer	Maeser
Buys	Maloney
Call	Maughan
Chidester	McFarland
Christiansen	Miller
Clark	Morris
Corfman	Moritz
Crane	Murdock, Beaver
Creer	Murdock, Wasatch
Cunningham	Murdock, Summit
Driver	Partridge
Eldredge	Peters

Engberg	Peterson, Grand
Evans, Weber	Preston
Evans, Utah	Raleigh
Farr	Richards
Francis	Ricks
Hammond	Robertson
Halliday	Robinson, Kane
Heybourne	Robison, Wayne
Howard	Snow
Hyde	Thompson
Ivins	Thoreson
Johnson	Thorne
Jolley	Thurman
Keith	Varian
Kearns	Warrum
Kerr	Whitney
Larsen, C. P.	Williams.
Lemmon.	

ABSENT—7.

Adams	Nebeker
Cannon	Strevell
Kimball, Weber	Thatcher
Mackintosh	
Lost.	

Mr. VARIAN. Mr. President, in explanation of my vote, I desire to say simply, this amendment, in my judgment, serves to aggravate what I deem to be a wrong principle underlying the proposition in an equally objectionable way of making a discrimination between the counties, which is just as offensive to me as the other.

Mr. SQUIRES. Mr. President, I want to offer an amendment to section 2, if I am in order, although I have given up all hope of changing, by any syllable or word, any section or paragraph of this article; but in view of the statement made by Mr. Crane, of the committee, that it is the intention of this article to have an apportionment every five years in this State, I would like to have it made plain in section 2 that that is the purport of the article, so, I offer the following amendment: strike out in line 4 the word "such," and lines 5, 6 and 7 to the words "United States" and insert: "The United States census of the year 1900 and every five years thereafter." So that the section will read as follows:

The Legislature shall provide by law for an enumeration of the inhabitants of the State in the year of our Lord nineteen hundred and five and every tenth year thereafter, and at the session next following the United States census of the year nineteen hundred and every five years thereafter, shall revise and adjust the apportionment for senators, etc.

Mr. ELDREDGE. Mr. President, may I ask the gentleman a question? Do you not consider that it is fully covered by the language that is used in the section?

Mr. SQUIRES. I do not. I want to make it plain.

Mr. KERR. Mr. President, it seems to me that this section is not clear on that point.

Mr. SQUIRES. Mr. President, it provides that the Legislature shall, at the session next following the enumeration of 1905, re-apportion, and also at the session next following the United States census, which may follow. There is ambiguity there, and I want to clear it up, that is all, and if my amendment is put in there it will make it perfectly plain. It will read that the first apportionment shall be made after the census in 1900 and every five years thereafter.

Mr. EVANS (Utah). If your amendment prevails, is it not the fact that you would have to make an apportionment at the same time of the United States census—

Mr. SQUIRES. Yes, after the year 1900; but under this section the first apportionment is provided for in the year 1905.

Mr. EVANS (Utah). Would not it double that expense?

Mr. SQUIRES. The intention is to have it every five years. That is what the article calls for.

Mr. EVANS (Utah). I do not understand it so. I hope this amendment will not prevail.

Mr. EICHNOR. Mr. President, I arise to a point of order. We passed section 2 yesterday, and I think amendments are not in order.

The PRESIDENT. The point of order is well taken.

Mr. VARIAN. Do I understand the ruling to be that when we have an article on the third reading we cannot amend it in any particular, because we have passed a section?

The PRESIDENT. That was the intention of the chair.

Mr. VARIAN. If that is going to be the ruling, we will confine ourselves to it hereafter.

Mr. SQUIRES. I understand the entire article is open to amendment until the final roll call is taken on the passage of the article.

The PRESIDENT. I think the chair is mistaken in regard to this matter.

Mr. EICHNOR. I was going to withdraw my point of order.

Mr. KERR. I desire to ask the gentleman from Salt Lake, Mr. Squires, if, while it is true, as he states, the provision here for the enumeration of the inhabitants of the State—is there not also the statement that at the session of the Legislature next following an enumeration made by the authority of the United States the Legislature shall revise, etc. Is it not also true that under this provision the Legislature would be required to revise and adjust the apportionment after the United States census was taken?

Mr. SQUIRES. Well, I think it is open to reasonable doubt, and that is the reason I wanted the amendment put in there. If it means what is said by Mr. Crane, why not make it plain so that there can be no doubt as to what is intended?

Mr. EVANS (Weber). Mr. President, according to my notion, section 2 is perfectly clear, and all it means is that the Legislature should provide for an enumeration in the year 1905 and every ten years thereafter, and the United States makes an enumeration once every ten years, so that the Legislature will re-apportion every five years, once upon the United States enumeration. I do

not believe that that section can be read in any other way than that. I think it is just as it should be, and I shall vote against the proposed amendment.

Mr. SQUIRES. I would like to ask the gentleman a question. Under this section, as it is provided, when do you think the first re-apportionment would be made by the Legislature?

Mr. EVANS (Weber). In 1900. I do not think there can be any other construction.

Mr. SQUIRES. That is what I want to cover, but I believe it is open to doubt. The first provision is that the first apportionment shall be made in 1905.

Mr. EVANS (Weber). No, 1900; because the section states, "also at the session next following the enumeration made by the authority of the United States." Now, the United States will make an enumeration in 1900, and after that enumeration the next Legislature following that shall enumerate and make a new apportionment, but under the enumeration of the State, no apportionment will be made until 1905. It seems to be very clear and I think there can be no misunderstanding about it.

Mr. SQUIRES. Mr. President, as I stated in the first place, I had no hope of changing a single word or striking out a comma or period in this article when I made the motion.

Mr. VAN HORNE. Mr. President, I suggest that the mere fact that our friends and colleagues, members of this Convention, differ as to the construction that should be placed on this section indicates that there is an ambiguity there. One of them understands that we would have an apportionment in 1900, the other, that the apportionment would not come until after 1905; and it seems to me that we could easily fix this by adding the letter "y" to "an," just before the word enumeration, so that it would read "any enumeration

by the United States," and that would cover it.

Mr. EVANS (Weber). According to the amendment offered by the gentleman from Salt Lake, Mr. Squires, it would require the State to make an enumeration in the same year that the United States makes its enumeration. It would be a useless expense.

Mr. SQUIRES. I do not understand that. I would like to have my amendment read, if the gentleman has got that impression of it. It don't call for any such thing.

Mr. VAN HORNE. I would like to ask what the effect of Mr. Squires' motion was—whether the order in which the provision for re-apportionment was put here, did not make the first apportionment follow the census taken by the State in 1905, and exclude the re-apportionment on the United States census of 1900? For that purpose, he makes this amendment, that following the United States census in 1900, and the State census in 1905, the apportionment shall be made. It seems to me that the word "an" there, changed to "any," will cover the whole question.

Mr. SQUIRES. That would be in effect exactly what my amendment calls for. That will leave it open to the Legislature after the enumeration of 1900 by the United States, to make a re-apportionment. The way it stands, I believe it to be ambiguous, and if my amendment cannot prevail, the amendment by Mr. Van Horne certainly should.

The amendment of Mr. Squires was rejected.

The PRESIDENT. The question is on the amendment of Mr. Van Horne.

Mr. EVANS (Weber). Mr. President, of course it is usual for the United States to make an enumeration every ten years, but suppose the United States under that amendment should make an enumeration at some other time, for some other purpose, if the word "any" be written in there, then the State Legislature would be required

to make a re-apportionment. There might be an enumeration for something entirely different from that which is regularly made every decade; I think it would be dangerous even to add the letter "y."

Mr. SQUIRES. I think so, too.

The amendment offered by Mr. Van Horne was rejected.

Mr. CREER. Mr. President, I move that the article on congressional and legislative apportionment do now pass.

Mr. WHITNEY. Mr. President, before that motion is put, I would like to make a slight amendment in section 3.

Mr. SQUIRES. It won't go.

Mr. WHITNEY. In line 7, changing the word "greater" to "more." So that it shall read, "shall never be less than twice, nor more than three times the number of senators." "More" is a better word than "greater."

Mr. ELDREDGE. Mr. President, I would suggest if that is simply dressing up the article, that that would be done by the committee on compilation and arrangement.

The question being taken on the amendment of Mr. Whitney, the Convention divided, and by a vote of 45 ayes to 35 noes, the amendment was agreed to.

Mr. SQUIRES. Mr. President, I would like to move a vote of confidence in the committee on apportionment and boundaries.

Mr. JOLLEY. Mr. President, the delegates of Sanpete County feel as though they have hardly been dealt fairly with in the representation that they will have in the Legislature. In looking up statistics and the registered voters of 1894, we find that Cache County has 16 more votes registered than Sanpete County, and they have three representatives to Sanpete County's two representatives. I wish to make a motion that we have another representative conceded to us.

The PRESIDENT. Whom will you take him from?

Mr. SQUIRES. Mr. President, I move we take him from Salt Lake.

Mr. THURMAN. I second the motion to take it off Salt Lake.

Mr. LUND. Mr. President, before that motion is put, I would like to say a few words. In the county of Cache there are 2,967 voters. In the county of Sanpete there are 2,951 voters—a difference of only 16 voters. Our school census shows that we have more children on the way to citizenship (laughter) than Cache has. And gentlemen, I do not think that for the simple reason that Cache has 16 more voters than Sanpete that they should have one representative more. If you think it is fair—Sanpete is not a majority here, but it does not occur to us that it ought to be done. There is only a difference of 16, gentlemen—16.

Mr. HART. I would like to ask the gentleman the difference in population. I understand that this was to be based upon population; 16,500 is about the population given for Cache. I will ask the gentleman if he knows what the population of Sanpete County was? I am of the impression that there are some two or three thousand difference in population between Cache and Sanpete County.

Mr. CRANE. 13,369.

Mr. ELDREDGE. Three thousand in round numbers.

Mr. VARIAN. Mr. President, I arise to a point of order. As I understand it, there is no motion to amend this proposition in any particular. It is simply a suggestion. The suggestion ought to be incorporated and a motion made, designating just what they propose to strike out and what to insert, it seems to me.

Mr. EVANS (Weber). Mr. President, I understood that Mr. Squires moved that one representative be taken from Salt Lake and given to Sanpete, and that was seconded.

Mr. SQUIRES. Mr. President, I would like to go straight on the record. I un-

derstood that Mr. Jolley moved that Sanpete be accorded one representative. I seconded his motion and suggested that it might be taken from Salt Lake in order to even the thing up and make it square.

Mr. EVANS (Weber). If that comes from Salt Lake, let it go by unanimous consent.

Mr. EICHNOR. Mr. President, I have tried to deal fairly with the outside counties and also with my own county, but this has got down to child's play. I think it is ridiculous—a suggestion of that kind; if Sanpete County—

The PRESIDENT. There is no motion before the house

Mr. EICHNOR. There is a motion.

The PRESIDENT. No; he has not fixed the status of the proposition. The roll will be called.

Mr. HART. Mr. President, a gentleman has made a motion here. I think he has a right to designate the exact motion in writing.

Mr. THURMAN. Mr. President, I make the point of order that it is not in order to make a motion to amend this; the only thing we can do is to discuss the question of the adoption or not adopting it, as a whole. It is not open for amendment in any particular, because there is a motion here to adopt it as a whole. The argument should be confined to either against that proposition or for that proposition.

Mr. VARIAN. I arise for information. I thought I got it before when the president ruled, but it seems not. Is it not true that when a proposition or a bill is upon its third reading, it is open to amendment until the roll call is ordered in any part of the bill or proposition? And is it not also true that no motion that a bill pass is necessary or permissible? When the house is ready for a vote they call for a vote and the roll call is ordered?

The PRESIDENT. I think the gentleman's statement of the proposition is correct.

Mr. GOODWIN. Mr. President, it seems to me this motion of Mr. Lund or Mr. Jolley cannot be put as it is. He asks that Sanpete be given another delegate. Until a way is provided to supply that delegate from the other counties, under this article that we are passing it cannot be done. He will have to couple with his motion the further proviso, where this other senator is to come from. There is another question of morals concerned in this. Mr. Lund made an open confession the other day here that he was not a married man and he is talking about his children—
[Laughter.]

Mr. LUND. Mr. President, I do not understand that this is a finished article yet, and that no way can be provided by which another representative can be given to one county. I would move that in the article on representative districts, page 3, line 48, the word "two" be stricken out and "three" inserted.

Mr. JOLLEY. I second that motion.

Mr. MURDOCK (Wasatch). Mr. President, I am opposed to the motion, from the fact that this apportionment was based upon the population of each county, and representatives were given one for each five thousand people, and now to change the rule and give Sanpete County one representative for about 4,300 people and give no other county in the Territory the same representation, it seems to me would be unjust and unfair. Some system has to be adopted upon which the representatives shall be based, and the plan that was adopted by the committee on apportionment was one representative for each county and an additional representative for every 6,000 people. At any rate there is no other county that has a representative, outside of the smaller counties, for a less number than 5,000 people, and I do not see why Sanpete County should have an additional representative when no other county has it. If we are going to increase their number, then I say, let

us increase it all around and give Salt Lake and other counties with a similar population additional representatives, or in other words, let us stick to what we started in with—not less than five thousand.

The motion of Mr. Lund was rejected.

The roll was then called on the adoption of the article with the following result:

AYES—90.

Allen	Kimball, Salt Lake
Anderson	Lambert
Barnes	Larsen, L.
Bowdle	Lemmon
Boyer	Lewis
Brandley	Lowe, Peter
Button	Low, Cache
Buys	Lund
Call	Maeser
Cannon	Maloney
Chidester	Maughan
Christiansen	McFarland
Clark	Miller
Coray	Morris
Corfman	Moritz
Crane	Murdock, Beaver
Creer	Murdock, Wasatch
Cunningham	Murdock, Summit
Cushing	Page
Driver	Partridge
Eichnor	Peters
Eldredge	Peterson, Grand
Emery	Peterson, Sanpete
Engberg	Preston
Evans, Weber	Raleigh
Evans, Utah	Richards
Farr	Ricks
Francis	Roberts
Gibbs	Robertson
Green	Robinson, Kane
Hammond	Robison, Wayne
Hart	Ryan
Haynes	Sharp
Halliday	Shurtliff
Heybourne	Snow
Hill	Spencer
Howard	Squires
Hughes	Symons
Hyde	Thompson
Ivins	Thoreson

James
Johnson
Keith
Kearns
Kerr

Thorne
Thurman
Warrum
Whitney
Williams.

NOES—7.

Jolley
Lowe, Wm.
Pierce
Stover

Van Horne
Varian
Wells.

ABSENT—9.

Adams	Mackintosh
Goodwin	Nebeker
Kiesel	Strevell
Kimball, Weber	Thatcher.
Larsen, C. P.	

Mr. RICHARDS. Mr. President, I desire to say, in explanation of my vote, that I could not be present yesterday during the discussion of this question, and while I do not approve of this apportionment, as a whole, I do not feel that I would be justified in attempting, or have not felt that I would be justified in attempting to re-open the discussion of this question, believing that it had been discussed to that extent that the Convention had agreed upon it and to re-open it would have no effect. I vote for the article although it is not as I would like to have had it.

The PRESIDENT. The article has been passed, gentlemen, and will go to the committee on compilation and arrangement, under the rule.

The Convention then, at 12 o'clock m., took a recess until 2 o'clock.

AFTERNOON SESSION.

The article on militia was read a third time and the roll being called on the question of its adoption the result was as follows:

AYES—81.

Allen	Lewis
Anderson	Lowe, Wm.
Barnes	Lowe, Peter
Bowdle	Low, Cache
Brandley	Lund
Button	Mackintosh
Buys	Maloney
Call	Maughan

Cannon	McFarland
Chidester	Miller
Christiansen	Morris
Clark	Moritz
Coray	Murdock, Beaver
Coifman	Murdock, Wasatch
Crane	Murdock, Summit
Creer	Nebeker
Cunningham	Page
Cushing	Partridge
Eichnor	Peters
Eldredge	Peterson, Grand
Emery	Peterson, Sanpete
Engberg	Pierce
Evans, Utah	Preston
Farr	Ricks
Francis	Roberts
Gibbs	Robertson
Green	Robinson, Kane
Hart	Robison, Wayne
Halliday	Ryan
Heybourne	Sharp
Howard	Shurtliff
Hyde	Snow
Ivins	Spencer
James	Squires
Jolley	Stover
Keith	Thoreson
Kearns	Thorne
Kerr	Thurman
Kimball, Salt Lake	Warrum
Larsen, L.	Williams.
Lemmon	

NOES—0.

ABSENT—25.

Adams	Larsen, C. P.
Boyer	Maeser
Driver	Raleigh
Evans, Weber	Richards
Goodwin	Strevell
Hammond	Symons
Haynes	Thatcher
Hill	Thompson
Hughes	Van Horne
Johnson	Varian
Kiesel	Wells
Kimball, Weber	Whitney.
Lambert	

Mr. RYAN. Mr. President, I wish to suggest something in regard to that. I am sorry I did not get back in time.

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I want to change the word "citizens," as in the first bill reported, to "inhabitants," and cover the amendment that was made.

Mr. EVANS (Utah). It cannot be done now.

The President announced the proposed article adopted and referred to the committee on compilation and arrangement.

On motion the Convention then, at 2:12 p. m., resolved itself into committee of the whole, with Mr. Ivins in the chair.

COMMITTEE OF THE WHOLE.

The article on legislative was then considered as follows:

Sections 1 and 2 were read by the secretary.

Mr. EICHNOR. Mr. Chairman, I move to strike out, in lines 6 and 7 of section 2, this clause: "But the governor may convene the Legislature in special session by proclamation." That is provided for in the executive article.

Mr. VAN HORNE. Has the executive article been passed yet?

Mr. CHAIRMAN. No, sir.

Mr. VAN HORNE. Then I prefer that this should remain and it should be left to the committee on compilation. If they conflict in any way, they can reconcile it.

Mr. EICHNOR. The executive department was passed on partly by a committee of the whole and we passed that section which empowers the governor to convene the Legislature in special session. I think this is superfluous and hence I make the motion.

The motion was agreed to.

Section 3 was read.

Mr. VAN HORNE. I think, Mr. Chairman, that probably the words "after the first election" are not necessary. This only provides for election after the adoption of this Constitution, and it seems to me those words are superfluous. It occurred to me in reading it over at this time. I move that the

words "after the first election" come out in line 2 of section 3.

Mr. HART. Mr. Chairman, I am not so clear about that matter. It seems to me if we strike that out there may be some question as to whether we are to have an election before the election that is to take place in 1896. It would seem to me, Mr. Chairman, that it is necessary to retain that in order to make that matter clear.

The amendment was rejected.

Section 4 was read.

Mr. EICHNOR. I would like to ask the chairman of the legislative committee a question, if he has no objection. I see that in section 4, lines 6, 7, 8 and 9, you provide that senators elected at the first session of the Legislature shall be divided by lot into two classes, as nearly equal as may be. Did the committee consider the question of numbering the senatorial districts and dividing them by odd and even numbers?

Mr. VAN HORNE. Yes, sir; that was considered before the committee. This is a unanimous report of the committee.

Mr. EICHNOR. I do not like the proposition of gambling.

Mr. HART. Mr. Chairman, there is one matter about this that I am not clear upon; and that is, in regard to the first election. It says here, in lines 6, 7, 8, "provided, however, that the senators-elect at the first session of the Legislature shall be divided by lot," etc. Now, the first election of the Legislature, as I understand it, will be in the present year, 1895, and section 3 provides for an election also in 1896. Now, the question is, at which of these elections, in 1895 or 1896, is this division of the senators going to be made, and the four and the two year terms started from?

If it is going to be the first election, which it really says here—the one in 1895, then, we will have senators elected in the odd numbered years, 1897, etc. I

think that is a matter that should be cleared up in some way. It certainly seems uncertain.

Mr. VAN HORNE. Mr. Chairman, the reason that I moved to strike out "after the first election" in section 3, was that I presumed the committee on schedule would arrange for an election of the house of representatives and senate—the election that precedes Utah becoming a State, but this Constitution would only go in effect for the State itself, and would regulate the elections occurring under the Constitution, and if that is so, this only goes to the first election after the Constitution shall have been adopted, and it is clear the way it is.

Mr. HART. Mr. Chairman, that will not help it, because the words "the first session" are used, and it is conceded that there will be an election in 1895. It would still remain indefinite. That thing should be made certain, it seems to me. I move, therefore, that the word "first," in line 7, be stricken out, and the words "elected in 1896," be inserted after the word "session."

Mr. VAN HORNE. I do not think that will do.

Mr. HART. It should be amended in another part. That is the idea, however, that this thing should be made certain in one form or the other.

The CHAIRMAN. Then the gentleman withdraws the motion that he made.

Mr. THURMAN. Mr. Chairman, I agree with the gentleman from Cache, but I think that he did not strike out enough words. I will offer as an amendment to his motion, that the words, "at the first session of the Legislature," in lines 7 and 8, be struck out, the word "elect" changed to "elected," and insert 1896 in its place. Then it will read, "the senators elected in 1896 shall be," etc.

Mr. HART. I accept that amendment.

The amendment was agreed to.

Mr. ELDREDGE. Mr. Chairman, I move to strike out, commencing in the 12th line, after the word "years," as follows: "So that one-half, as nearly as possible, shall be chosen biennially thereafter." I think it is useless repetition of what the forepart of the section contains.

Mr. VAN HORNE. Mr. Chairman, I would simply say that that suggestion was made in the committee. I made it myself, but the committee decided that it was clearer and more definite and less chance for a mistake if it was left in, and decided to leave it in.

The motion was rejected.

Section 5 was read.

Mr. VAN HORNE. Mr. Chairman, I move to insert in the first blank the number 18, in accordance with the adoption by this Convention of the article on apportionment, and in the second blank, 45.

The CHAIRMAN. Wouldn't it be better to put those amendments separately?

Mr. VAN HORNE. I move that in line 1, section 5, the blank shall be filled by inserting the word 18.

Mr. SNOW. Mr. Chairman, I move as an amendment that the section be stricken out. Section 3 of the congressional and legislative apportionment article covers substantially the same ground. It is not necessary to have it in both.

The motion of Mr. Snow was agreed to.

Sections 6 and 7 were read.

Mr. KERR. Mr. Chairman, I move that the words "twenty-one years of age," in line 3 of section 7, be stricken out, for the reason that persons cannot become citizens of the United States before they are twenty-one years of age, and this statement, therefore, is superfluous.

The motion was rejected.

Mr. SQUIRES. Mr. Chairman, I move that the words "twenty-one" be

stricken out and the words "twenty-five" be inserted.

The motion was agreed to.

Mr. L. LARSON. Mr. Chairman, if it is in order, I make a motion that the words "twenty-five" be stricken out in section 6, line 3, and insert the word "thirty" in lieu thereof.

Mr. HALLIDAY. Oh, don't keep the young men back all their lives.

The CHAIRMAN. The chair hears no second to this motion.

Section 8 was read.

Mr. ANDERSON. Mr. Chairman, I move that the words "or of this State," in line 3, be stricken out.

The amendment was rejected.

Sections 9, 10 and 11 were read.

Mr. EICHNOR. Mr. Chairman, I move to strike out lines 1, 2, 3, 4, 5 and 6, and line 7, ending with the word "ability," of section 11.

Mr. EVANS (Weber). Mr. Chairman, I move that all the balance of the section be stricken out also.

Mr. EICHNOR. I accept the amendment.

Mr. SQUIRES. I would like to ask the gentleman from Weber why he wants to strike out the last provision of this section?

Mr. EVANS (Weber). There are a good many reasons why the Legislature ought to retain that power, and another thing, it is very difficult to ascertain just how you will convict a person under this section. I think it ought to be left to the Legislature.

Mr. ROBERTS. Mr. Chairman, I hope that motion to strike out section 11 will not prevail. I think it is only proper that we should provide that members of the Legislature be put under oath to faithfully discharge their duties; to be true to the Constitution of the United States and the State of Utah, and if this section is stricken out, I do not know where there is a provision that would require the members of the Legislature to take an oath of office. I think it ought not to be stricken out.

Mr. THURMAN. Mr. Chairman, I am in favor of the motion to strike out. The article on elections, in section 15, provides that all officers made elective or appointive by this Constitution, or by the laws made in pursuance thereof, shall, before entering upon the duties of their respective offices, take or subscribe the following oath or affirmation, etc. That covers every conceivable office of the State. I think it ought to be provided for once for all, just as it is here. Now, as far as that goes, that answers one objection raised by the gentleman from Davis County. Were it not for this provision I would agree with him that that part of the section ought not to go out. Now, as far as the latter part of the section is concerned, I think it ought to go out, for the reason suggested by Mr. Evans, but not elaborated upon, and that is this, you say the only thing you are required to do, you swear that you will discharge the duties of your office with fidelity. Now, suppose a man does not do that. Suppose a man neglects his duty, can you convict him of perjury? There has never been a case known in the books. That is all he swears to do, that he will discharge the office with fidelity. If he fails to do that, there is no way of reaching it and convicting a man for perjury. It ought to go out for the reasons suggested.

Mr. FARR. Mr. Chairman, I hope this section will remain. It is a very respectable section. It looks very well. I hope it will remain there.

Mr. LEWIS. Mr. Chairman, I think we ought to make it conform with our article on elections. The term "he" is used here some seven times, and to make it consistent with our article on elections, there should be a feminine pronoun—she or her.

Mr. FARR. I have read somewhere that "she" means "he" and "he" means "she."

Mr. SMITH. I would like the privilege of asking Mr. Van Horne where

this section comes from—is it gotten up in the committee or taken from some other constitution?

Mr. VAN HORNE. I think it is compiled from a number of constitutions. There are one or two constitutions which have provisions for an oath very much more stringent than provided for here. That was cut out by the committee, I will say to the gentlemen. Of course, the draft of the legislative committee had to be complete in itself, without regard to what would be accomplished by the Convention before the consideration of this article, and there are a good many things in the article that probably have already been covered in the articles on elections and apportionment. So far as I am personally concerned, I was opposed to the latter portion of the section going in, in the committee, but the committee, in their wisdom, overruled me on that proposition, and it was inserted and finally assented to by the unanimous vote of the committee on legislative.

Mr. SMITH. Mr. Chairman, I am opposed to the whole section. It seems to me there is a chance for entanglement. It may produce unpleasantness and there is doubt and uncertainty in the whole section, in my judgment. I shall vote against it.

Mr. CREER. Mr. Chairman, I am opposed to striking it out. It seems to me that there would be one object attained anyway by keeping the matter there, that is, in the section following you find it provides who shall administer the oath.

Mr. BOYER. Strike that out, too.

Mr. CREER. I think it is proper; there should be some person who shall administer the oath to the Legislature.

Mr. EICHNOR. Does not the latter part read like a section—

Mr. CREER. I am in favor of striking out the latter part after the word "ability," on the 7th line, but I would retain the balance of it, and also retain the following section. Then there is

some proper person to administer the oath to the Legislature.

Mr. THURMAN. Mr. Chairman, may I be permitted to make one further suggestion? Section 12, when we reach it, may be amended in the first line by saying that the official oaths of members of the Legislature shall be administered by the judges of the supreme court. We have an official oath elsewhere, which I have read.

Mr. CREER. I will accept that.

The motion to strike out section 11 was agreed to.

Section 12 was read.

Mr. BOWDLE. Mr. Chairman, I move to strike out section 12.

Mr. VAN HORNE. Mr. Chairman, I hope that that motion will not prevail. If it does not, I would move to amend by saying, "the official oath of officers and members of the Legislature shall be administered," and go on with the provision as to how this oath shall be administered.

Mr. BOWDLE. Mr. Chairman, I can not see any necessity of prescribing in the Constitution who shall administer the oath. It is not necessary at all. I notice that it is not in many of the other constitutions.

Mr. RICHARDS. Mr. Chairman, I think this section ought to go out, particularly in view of the fact that the preceding section is taken out. The Constitution will be complete without it. In the absence of this provision, I suppose any person who is authorized to administer an oath might administer the oath to these officers, and I second the motion to strike it out.

The motion was agreed to.

Section 13 was read.

Mr. SMITH. Mr. Chairman, I move to amend section 13 in line 2, by striking out the words "four dollars" and putting in "two dollars and a half."

Mr. ALLEN. Mr. Chairman, I move to amend that by making it "three dollars and a half."

Mr. FARR. Mr. Chairman, I favor

the first motion and would like the gentleman to withdraw the section and make it three.

The CHAIRMAN. The amendment is not in order.

Mr. EVANS (Weber). Mr. Chairman, I am opposed to all these amendments. I think that four dollars a day is merely a nominal sum anyway for services in the Legislature. It will not any more than pay expenses, and if we put it at anything less than that, a poor man will not be able to serve in the Legislature. They cannot pay their expenses there. It would simply result in selecting men who had means, by which their expenses could be paid. If you look over the constitutions of the various states everywhere, you will find that four dollars is below the average sum. I do not believe that a member of the Legislature ought to make any money out of his office, but I do think that he ought to have enough so that a poor man can pay his expenses while he is in the service of the State, and I shall, therefore, vote against all the amendments, and vote for the section as the committee has reported it.

Mr. GOODWIN. Mr. Chairman, I would suggest as a reason for retaining this amount stated in the section that without it no member of a labor union can be a member of the Legislature.

Mr. RALEIGH. Did you ever know a poor man to get to the Legislature anywhere?

Mr. EVANS (Weber). Yes; I think I have known a good many of them in Utah. In fact more poor men than rich men. That has been my experience at least. I remember that Mr. Thurman has been in the Legislature a good many times and he is an extremely poor man. [Laughter.] He will probably be poorer the longer he serves in business of this kind.

Mr. CANNON. Mr. Chairman, I am opposed to both amendments, and favor the original proposition of four

dollars per day. The amount to be expended ordinarily would be in the per diem of members, \$15,120, and while this is a pretty large sum, at the same time, it has been agreed upon as the number that would at present constitute the Legislature—63, and I do not think it would be just to men who are poor and who have to leave their homes in different parts of the Territory, and neglect their business and their affairs, and spend their time in public business, to make the compensation less than four dollars. I certainly favor the original article.

Mr. SMITH. Mr. Chairman and gentlemen, I am in favor of the amendment to this section, for this reason: The office of legislator is a very honorable office, and to which any man in the commonwealth may properly and justly aspire. We have increased, under the apportionment bill, our number of legislators. This will place a very heavy burden upon our people, and inasmuch as it is a proposition that we run an economical government, and I have been assured that unless we do provide for an economical government in this Constitution, there may be some barriers in the way of it, and looking upon this matter as a holiday for six weeks during the winter, upon the part of most of the members, desiring to have a good time away from home, I certainly favor the proposition to insert two dollars and a half. The members from the country receive their mileage, which pays their way here. This will provide for their wants and necessities. They can serve the commonwealth with honor and go home satisfied that they did it because they loved their country.

Mr. HART. Mr. Chairman, you cannot have a good time on two dollars and a half a day. [Laughter.] Gentlemen from Salt Lake, who live at home, and do not feel the expenses of members who come from a distance, may get along on an amount like this.

While I am in favor of economy, I am not in favor of parsimony. Four dollars a day, Mr. Chairman, will barely pay the expense of a member in attendance upon the Legislature, and as it now stands, it actually requires patriotism upon the part of any business man to accept a position in the Legislature. He cannot afford to leave his business and sacrifice his business interests and go to the Legislature, and then be out of pocket besides, while he is there, not having his expenses paid. I think that four dollars is the very lowest we could place it at. I am in favor of the four dollar limit.

Mr. EICHNOR. Mr. Chairman, economy is all right when it is properly administered. The other day the Convention proper adopted a section that we would have a separate election for judicial, school, and municipal officers. That will entail an expense of from six to ten thousand dollars every year. Gentlemen, you voted for that with the facts right before you. You rushed right into it. Now, when it comes right down to the Legislature, I think that four dollars is small enough. I suppose this motion was made to find out how many were in favor of four dollars—to find out how many were candidates for the Legislature. I am not a candidate, I state frankly.

Mr. THURMAN. You are talking in behalf of your friends, though, are you not?

Mr. EICHNOR. Yes, sir. Four dollars is little enough for a man that lives in Salt Lake City. This time I want it distinctly understood that I favor the outside.

Mr. CREER. Mr. Chairman, I am not in favor of these amendments, particularly the one of two dollars and a half a day. It is nowhere written in the scriptures, I believe, that a man shall serve without purse or scrip. I think they ought to be put on a level at least with ministers of the gospel, and four dollars a day is just about as little as

they get—not many of them much more, and it seems to me that that ought to remain. It is about all we can afford to pay, I know.

Mr. FARR. Mr. Chairman and gentlemen, I am not through with this yet. I want it distinctly understood that I am here to stay. Our session has lasted for three or four weeks. I tried to hurry the thing through. I could not do it. I could not budge it. I have been home and arranged my business to stay here all summer, and I am here to-day and I want each member to understand distinctly that I shall be opposed to high salaries as long as I have anything to say. I give you my reasons. I was a member of the Legislature and served the public of Utah for twenty-eight years. Ten years I served Uncle Sam, our rich government—claims to be wealthy—and only got three dollars a day and I was satisfied with that. Every member was satisfied. At the same time provisions at that time cost about four times what it costs to-day and our merchandise cost us at least four times as much for our family.

I can go on and enumerate but it is not necessary. Everything that we used was at least four times as much. Well, now, if we cannot live on three dollars a day or even two dollars and a half, I should be sorry. I know if we lived on three dollars a day then, when everything was high—four times as high as it is now—we got along first rate. Now, I want to ask this intelligent body of men why they want to pay four dollars a day or to pay high salaries? The people are taxed to-day, some of them are so in debt they can hardly live, between nine and ten hundred persons sold out in Weber County for taxes this winter. They could not get the money, and if they ever redeem their property they have got to pay the expense of advertising and selling it and then one and one-half per cent. per month for that money. Now, for us to

pile up expenses, I am opposed to it. I know that my constituents are and I have heard from different ones in different parts of the Territory. They are utterly opposed to the high salaries. It is the general feeling throughout the Territory that they are opposed to these high salaries from the fact that they do not know where the money is coming from. The argument is if you get a man of ability, you have got to pay for them. I tell you if you have got a man of ability he is able to get a living without taxing the poor man, and if we do not cut down our expenses we are going to follow the example of most of the other states of the Union; they are nearly all insolvent, and cannot pay their debts, and I say we had better begin to pay our debts, and I always maintained that a man able to fill an honorable office of legislator or any office of the Territory is able to get a living without taxing the poor man to do that, and if we do not cut down these salaries, there will always be quarreling and wrangling to get office and electioneering to get what? To get the salaries. I tell you the honor of it is worth something, and why should we put our hands in the pockets of the poor and tax them to do that—to pay salaries? I tell you that the man that is capable of filling the position is able to get a living without that. I served as mayor for twenty years and I only earned sixty dollars for the whole twenty years. I got fat on it. [Laughter.] I tell you a man of ability is able to get a living without taxing the poor man to death, and I say two dollars and a half a day will pay a man's board, and he can live well on it with the present prices of food and clothing and so on.

Mr. THURMAN. Mr. Chairman, I am opposed to the section as it stands and am not entirely in favor of the amendment proposed by the gentleman from Salt Lake. I do not think that the Legislature ought to be tied up to

give its members four dollars a day and ten cents a mile each way, when the day may come that mileage in this Territory will not cost over two or three cents a mile. I do not think we ought to be everlastingly bound. I will ask the chair if an amendment is in order?

The CHAIRMAN. The chair rules that an amendment at present would not be in order. There is already an amendment and an amendment to the amendment and the chair would like to dispose of them.

Mr. THURMAN. Then I shall read as a part of my argument the amendment that I shall propose when I can offer it:

The members of the Legislature shall receive such per diem and mileage as the Legislature may provide, not exceeding the sum of four dollars per day and ten cents per mile for the distance necessarily traveled going to and returning from the place of meeting on the most usual route, and they shall receive no other pay or perquisite.

Mr. PRESTON. I second the motion.

Mr. THURMAN. That I shall offer when it comes and I think it ought to meet all the objections raised.

Mr. RALEIGH. Mr. Chairman, there is a good deal in what Mr. Farr of Weber has said on this matter. Now, the young people of this Convention have been born and bred in different times to a certain extent. It does not follow that simply because we have flush times now that we always shall have, and I am in favor of the amendment to the motion. I would, however, vote for the amendment offered by the gentleman from Provo (Mr. Thurman), if he would say not to exceed three dollars per day and ten cents a mile. I would vote for that, if he makes that motion, but we have got to retrench. We have gone ahead too far in high priced salaries and it permeates all through the community in labor, even down to common laborers, and I am satisfied that we never can hold up to that standard of prices, and we may as well commence now to retrench in sal-

aries and per diems and in labor just as well as to be forced to it. We shall necessarily have to do it and we might as well commence right here on this floor according to my understanding. I do not wish to reiterate what Mr. Farr has stated, but I passed through this same routine he has passed through, except that I have not been a legislator all that time, but I have been in the government of the Territory and the city all the while and I have never known any such salaries as prevail to-day in any department of the government of our Territory and I do not expect to see it continue as it is to-day. I know that it cannot. And hence I hope the motion to amend will prevail.

Mr. ALLEN. Mr. Chairman, if there is anything under heaven that the good people throughout the Territory wish it is to have salaries cut down, and they do not want to pay more than two dollars and a half a day to have a good time. But we think they could have a good time here on a dollar a day, because they have a good time working on a ditch all day at a dollar and lots of times cannot get that much. Now, while I know that it would not suit this Convention to cut it down to two dollars and a half or three dollars a day, I want to try and make a compromise and make the people feel a little better. Put it down to three dollars and a half, that will make it about two thousand dollars less that each Legislature would get, and that would help two thousand dollars. Therefore, I propose to vote for three dollars and a half.

Mr. BOWDLE. Mr. Chairman, if it ever comes to the time, I shall support the amendment read by the gentleman from Utah County. I am not in favor of these amendments. I am not in favor of the section just as it stands. I believe that it ought to be left to the Legislature, but I am not in favor of putting it down to two and a half a day or three dollars a day. We do not

want to publish to the world that we are so tremendously poor here that we are going to make everything come down to the last penny. I am not in favor of high salaries, but if you want to have a Legislature in the future that will be composed of the kind of men that you desire, you must at least give them enough that they can live upon it while they are here, and if they are in some kind of employment that they need a substitute, this in a measure supplies for the substitute while they are away. The men who will seek the place as a matter of honor simply to lose money while they are here are not the men that will lose money by the job. They will have one hand out behind all the time ready for some fellow that has a bill, to tickle them with a little retainer. I have seen a little bit of that back in some of the states, and I know that that is the tendency. That does not necessitate that we should make a high salary, but we should make it so that a man with integrity that is not hunting for those perquisites, should be able to live here while he is serving his constituents and go back and not lose money by acting honestly.

Mr. EICHNOR. I would like to ask Mr. Bowdle a question? Were you ever in the legislature in one of the eastern states?

Mr. BOWDLE. No, sir; but I have lived in the capital in the eastern states and seen it.

Mr. L. LARSON. Mr. Chairman, I wish to say a few words on this question. I am in favor of low salaries and if there is enough in this house that will say three dollars, I am going with them. If there is not enough to say three dollars, then I will say three and a half, and if I cannot do any better, of course, I will come to four. [Laughter.] And I hope there are enough in this house to say three dollars, and then the question as to mileage, I am in for fifteen cents and no more, for mileage one

way only. That is more than what it costs us to-day to travel anywhere in this Territory.

Mr. CHIDESTER. Would you be in favor of making your proposition to apply to members of the Convention too?

Mr. LARSON. Yes, sir.

Mr. GOODWIN. Mr. Chairman, there is a little conflict here that I wish to call your attention to. We are told that this is a very honorable place. At the same time we are told that the salary sufficient for a man to attend a Legislature and to pay him well and maintain his honorable place is not what either one of these economical gentlemen pay their confidential clerks. I like economy first rate, but the laborer according to the old rule is worthy of his hire. Any man that is fit to come to the Legislature is worth four dollars. If he is not fit, then the State gets the worst of it, and the man who will go to the Legislature for less than that, if he is a poor man, will have one hand behind him sure or he would never take the place, and corporations will want all that class of men. I am speaking in the interests of corporations now. I have in my mind's eye two or three gentlemen who expect to buy their places to the United States senate and other places. I want to make it just as favorable for them as possible, and the lower you reduce the salary of the Legislature the more they will have to pay. Some of them live outside of town and a good many in town. Let us be decent. If we are going to have a Legislature at all, pay them a fair salary. If you want to put a limit, limit the time they shall hold their session. Make it forty days, but give them enough to buy a suit of clothes and be respectable while they are here. I am opposed to all the amendments, but I will support Mr. Thurman's substitute.

Mr. PAGE. Mr. Chairman, I sincerely trust this motion will not prevail—that is neither of the amendments before the

committee. It seem to me it is hardly the proper thing. There is no economy in selecting men to accept the position for that remuneration in my opinion. I think it is rather too much parsimony that we are showing. Besides, it seems to me, it is taking an unfair advantage of a great many delegates on the floor of this Convention who have so strenuously advocated woman's suffrage. They will no doubt be returned continually to our future Legislature until life will be a burden to them.

The motion of Mr. Allen was rejected.

The motion of Mr. Smith was rejected.

Mr. Thurman offered the following substitute for section 12:

Members of the Legislature shall receive such per diem and mileage as the Legislature may provide, not exceeding the sum of four dollars per day and ten cents per mile for the distance necessarily traveled going to and returning from the place of meeting on the most usual route, and they shall receive no other pay or perquisite.

Mr. RALEIGH. Mr. Chairman, I move an amendment that it be not to exceed three dollars per day.

Mr. FARR. I second that motion.

Mr. CANNON. I arise to a point of order. The committee has just refused to consider both three and a half and two and a half; and three dollars being a mean between them amounts to the same thing.

The CHAIRMAN. The chair rules the point of order not well taken.

Mr. JOLLEY. Mr. Chairman, I am one that favors the three dollars in the place of either two and a half or three and a half, and I want to say, gentlemen—you were saying it is worth four dollars to come here and perform the work in the Legislature. How much is it worth to tend the farm and run the plow and go in the canyon and do all of the other work that the majority of the people of Utah have to perform, and how much per day do you suppose they get out of the three hundred and sixty-

five days for their labor? I will venture to say here to-day that the farmer of Utah—if his wages were figured up—it would not amount to six-bits a day.

Mr. EICHNOR. I would like to ask the gentleman a question. Were you present the other day when the proposition of the elections and suffrage passed.

Mr. JOLLEY. Yes, sir.

Mr. EICHNOR. Did you vote for that special election after the general election?

Mr. JOLLEY. I voted for the passage of the entire article. I was not here the day the first section passed.

Mr. EICHNOR. You were aware when you voted for the proposition that it was running the people of the Territory of Utah into an unnecessary expense of ten or fifteen thousand dollars, were you not?

Mr. JOLLEY. Well, we were doing that to accommodate the ladies of Utah.

Mr. EICHNOR. No, it was not for ladies. The special election of municipal officers, school officers, and judicial officers—it entails an additional expense on the people of the Territory of Utah of from ten to fifteen thousand dollars.

Mr. JOLLEY. I will just say that I voted against the proposition that he has just mentioned. We have had in the past here in Utah a small tax, and that is the greatest fear the people have of this Constitution throughout the length and breadth of this Territory, is the high taxation, if Utah becomes a State. On the east of us we have our neighbor state, between two and three cents on the dollar—about three times what we have to pay to-day. On the south, we have the same. On the west, I am not so well posted, but I would not think it was much less by the depopulation of that state since it became a state. And it is for us to look after this one particular item, as much as any other one thing, and it will have as great an impression in encouraging the

people to vote for the Constitution of the coming State, if we will have the taxes down low, more than anything else that has been sprung upon this floor. It is something we have got to watch. We have not only got to watch it in this respect, but every other that comes up. I, therefore, support the amendment to the motion, that they should have three dollars a day.

Mr. SQUIRES. Mr. Chairman, I am not in favor of that proposed amendment. I do believe in economy in public expenditures, but I do not believe that it is wise to cut down below four dollars, at least, the compensation of men who are to legislate for the State. I am reminded of something that happened in the city where I lived for fifteen years, which bears directly upon a proposition of this sort. We had a common council in the city of Brooklyn that were paid a salary of two thousand dollars a year, and in a fit of economy on a certain occasion in the passage of a new municipal charter, it was thought wise and prudent to cut off those salaries entirely and make the members of the city council serve without compensation. That goes a step farther than anybody has attempted to go here to-day on this proposition, and I want to say to you, gentlemen, that the result of that was anything but satisfactory to the city of Brooklyn. There was more stealing and thieving and bribery and corruption in the next two years than the city had ever known in all its existence, and the result of it was that the proposition had to be repealed. Now, I do not see how gentlemen can argue from the line that Mr. Jolley argued. Because a certain class of our citizens are unable to make three dollars a day is no reason why we should advertise to the world that we are too poor to pay our legislators at least four dollars a day, and I do not believe it would be wise to make any such change. Four dollars a day, it seems to me, is small enough. I do not expect to be in the

next Legislature, gentlemen. I am not talking for myself, but I believe it ought to prevail at four dollars a day.

Mr. FARR. Mr. Chairman, Mr. Thurman has made his motion. I am satisfied to leave it to the Legislature, but I do feel as though I want to put myself on record that my views may be known, and I want to state right here that I would like to have it put on record, if anybody thinks enough of it to put it on record, that those that are in for high prices, above what they think the people can afford to pay, I will warn you the next election that comes in their supporters will be hunting men that have pledged themselves to cut down salaries and men that won't do it won't be elected. You will find that to be the consequence, for I know what I am talking about in regard to the condition of the people and getting in pretty tight corners to pay taxes. We might as well commence here and let it go abroad among our sister states. I would like to have them point to Utah as a State that is out of debt. They pay their officers and they are not extravagant in their salaries. I would like that to go abroad that Utah is free from debt, because they are economical.

Mr. SQUIRES. Mr. Chairman, if I thought what the gentleman says, I should not favor this proposition of the gentleman from Utah County, because at the next session of the Legislature it might be possible they would cut the salary down to two dollars and a half. I do not believe it is so and consequently I am in favor of this amendment.

Mr. HAMMOND. Mr. Chairman, I had occasion, with the aid of Uncle Sam and my good friends, to get a suit of new clothes since I came in here in Salt Lake. I called on the Cutler Brothers—home-made. Democrats believe in home industry, and I inquired of the journeyman tailor what the wages were, whether they worked by the piece or how they work. "Well," says he, "we

work by the day." "How much per day?" "Four dollars." Now, I say to my farmer friends if they cannot make \$1.50 or six-bits a day, let us go into the tailor business.

Mr. SMITH. Mr. Chairman, there has been a good deal of talk on this proposition and about corruption that is likely to accrue if men receive small wages in connection with it. I presume if this matter was examined it would be found that more men who receive large salaries were corrupt than men who receive small ones. It is a matter of fact well known that the British parliament serves for nothing, and I presume there has been less stealing in human souls—in their purchases and barter among that body of men, probably, than any body of men in the world. I am decidedly and firmly in favor of a low limit being fixed on this matter. And it is a grave question in my mind whether the proposed State Legislature would not serve us with better fidelity, with more honesty, and more uprightness if they received not one farthing for their services. I trust that the suggestions in regard to men being so readily bought and bartered and traded about in these propositions will have no effect upon the gentlemen in voting upon this matter. I shall certainly vote for the substitute of Mr. Thurman, with the proposed amendment fixing that rate of three dollars, because I can see that if we start in on this proposition those that may be ambitious to go to the Legislature, being now the legislators of the people, in one sense, starting with ourselves, on economical grounds, it is possible to reach this question as we proceed in the salaries of other gentlemen which shall come up for our consideration, and I want to go on record so far as I can, in favor of voting the lowest salaries in the proposed new State that the ambitions of men shall not be excited to secure public office on the ground of securing the emoluments of those offices

and taxing the people therefor. Therefore, I made the motion that I did and I shall stand by the lowest amount on these propositions as they present themselves if they are proper and right.

Mr. HART. I will ask the gentleman whether he considers that four dollars a day would excite the ambition of any of our citizens to run for the Legislature?

Mr. SMITH. From the statement of some of the gentlemen, I think it would.

Mr. MURDOCK (Beaver). Mr. Chairman, we will bear in mind, gentlemen, that we are starting out on a new era from a territorial government to a state, and the people feel very sensitive upon the point of trying the new experiment, and that is one of the features that they very much are distrustful of, and that is in regard to salaries. It is very true that four dollars a day is not much for many men perhaps on this floor. Perhaps many men throughout the country would regard that as a very small remuneration for their valuable time, but you must recollect that we have certain classes of men in our counties—in the majority of the counties, and they would regard it as being worth their time for the amount that they would receive and the honor, and you cannot change the quality of men—such men as are in the county, that are sought for by the people, are men that people have the most confidence in as being equal to the calling of a legislator, and I don't think that any man would object to going at the price that has been stipulated; that is the lowest prices—say at two and a half or three dollars a day, compared with what other men are receiving from their labors. And these men in the common avocations of life, they have to pay these bills, and there is not one of them—I doubt whether there is a man in the outside counties, at least, but what would think that they were so much honored to be called to the position; and what the people are looking for—what

they are looking for from this body of men, is to keep down the prices, for that is what they are most sensitive on, is the prices that will be inaugurated by this Convention, and for that reason I fully approve of the amendment of the gentleman from Utah County—the amendment to his motion, of three dollars a day, and I do not think there is a man that would fail to go that the people would select, and it would show a feature to them that we are certainly doing what we have agreed to do. I have agreed to do it if possible—to keep down prices, and you recollect that the Legislature was increased from one-third to nearly one-half in the most numerous branch—is almost increased to double the number, and in the senate to one-third, and for that reason, that will increase the price, which will make an increase in the price of our Legislature. We may be able to cut down the number of days; I cannot say how that will be, but I know the people are looking for it, and they are distrustful. That is one of the features that they are most distrustful of. And because that other states surrounding us in other parts of the country have gone largely into debt, that is no sign that we should. I say that we should study economy.

I do not want to be found in this state—I do not want to be found in the condition that other states are, and for this reason, I am opposed to high prices, not only in the Legislature, but every other officer that may get a position. I say the honor is worth something. It is worth something to every man, and I do not believe that there is any man that will object to accepting the position if he can even get enough to pay his expenses. He is doing nothing at home particularly of any great importance, although there are men that their time is very precious, and even four dollars or five dollars a day is no consideration for some men, but we are now providing for the men who will be

the representatives from the country—from the different counties.

Mr. RALEIGH. I would like to ask Mr. Thurman if he won't shape his motion so as to say not exceeding three dollars a day?

Mr. THURMAN. The motion is now not to exceed four dollars a day. I am opposed to the amendment.

The amendment to the substitute was rejected.

Mr. EVANS (Utah). Mr. Chairman, I move to amend the substitute by striking out the words, "and returning from."

Mr. THURMAN. I will accept that amendment.

Mr. L. LARSON. Mr. Chairman, I make a motion that this be amended and insert fifteen instead of ten.

Mr. EVANS (Utah). Mr. Chairman, I do not think that we ought to provide more mileage than it costs. The object of mileage is to cover the cost of travel. I have figured this thing out, on the present ratio it costs about seven cents going and returning—about seven cents a mile, that will leave a little margin of three cents. Some of them have to travel by team. Those who travel by team usually come long distances, and I think that the three cents a mile extra will pay them for the travel that might be necessary by team in reaching the railroads, and I think that we ought not to speculate in that manner, but I am opposed to the substitute in that particular. The prospects are that the railroad fares will come down rather than be higher, and it more than covers it at ten cents a mile, both going and returning. I certainly am in favor of and hope that the amendment will prevail, and I am opposed to fifteen cents, because, while it is not so objectionable as twenty, it would be for the same reason.

Mr. ROBERTS. Mr. Chairman, I think, sir, that it is a positive conclusion that I shall never attend a Legislature in the Territory, so that I can speak im-

partially on this subject. It is just possible that this large amount of mileage will more than meet the bare expenses of reaching the capital, but it must be understood that a great many of the members of our future Legislatures will be within reach of their homes and their per diem will therefore be more serviceable to them than to members that are a long distance from home and who will have to pay hotel expenses. And for that reason, in order to equalize this thing and make the members who come from a long distance and have to meet hotel expenses somewhat equal with those who are within reach of their homes, I would be willing to see them draw more mileage than will meet the bare expense of reaching here, as it would help, perhaps, bear their expenses while here at the capital. I, therefore, shall be opposed to either of these amendments and shall be in favor of the article as it is written and came from the committee.

Mr. EVANS (Utah). Mr. Chairman, I would like to remind the gentleman from Davis County that the fact of a man living ten miles out of Salt Lake City, who comes here, he has to pay the same hotel bill as does the man who lives five hundred miles from here, and you cannot equalize this thing no way you can fix it, so that the burden will rest entirely the same upon each individual.

Mr. CLARK. Mr. Chairman, I move to amend the amendment of the gentleman from Tooele. I believe the purpose of mileage is to bear the expense, and I think ten cents a mile is sufficient to pay all the expenses.

Mr. IVINS. Mr. Chairman, I just want to state that with ten cents a mile, a member would receive \$33 for traveling from here to Saint George and back. His actual expenses of transportation, without allowing him anything at all for board bills on the road, would be \$36 at the present rate of travel; so that you are actually making the

rate, if you place it at ten cents a mile, less than it is for a man to travel and board himself under existing circumstances.

Mr. JOHNSON. Mr. Chairman, I did wish to say a word on this question, as I live a good ways from here and I have just been figuring up the expenses of coming here and returning home, and figuring the mileage at 15 cents a mile, it is exactly the same. Now, while I believe in economy, as much as any ordinary person, I wish to look at it reasonably and use a little judgment in the matter. Now, we are supposed here to get four dollars a day. I want to know if there is a man in this house, outside of those who live here, but what is anxious to lose this four dollars a day from now on and get to go home? If each member here does not consider that his time at home to-day is worth more to him than four dollars is here? What do we each of us clear here each day that we stay, our four dollars a day—the country members, I mean? It is very ordinary wages, gentlemen, my experience tells me after expenses are paid—and we do not have a very good time either. I do not believe we should look at this in such a parsimonious way.

I consider a man that is capable of representing the people, or at least they think he is, at home, when they elect him, ought to have at least enough to hire an ordinary man at home and pay his board bill here. Who of us are satisfied to stay here even if we could pay an ordinary man at home that will go out and do a hard day's work for us, who is willing to give up all of his business at home—the overseeing of it, which amounts to more than the man's wages—who is willing to do this? Now, the honor, so far as that is concerned, we cannot live on it very well. It is very nice I suppose to have, but it is rather a poor quality of food when you take it alone. I am not in favor of cutting down the wages of the legislators

until they cannot come here and live like decent men. I do not believe it is right and I do not believe that the people exact it or expect it, and I, for one, think they ought to have twenty cents a mile one way and four dollars a day for the time actually necessary here, and I am opposed to all measures that make it less than that.

Mr. HAMMOND. Mr. Chairman, is this subject to any more amendments?

The CHAIRMAN. No, sir.

Mr. HAMMOND. I would move to strike out the whole thing and leave it to the Legislature.

Mr. EVANS (Utah). Mr. Chairman, I did not understand the purport of the gentleman's substitute, in regard to the mileage being left to the Legislature to pay, and since reading it, I will withdraw my amendment, with the consent of my second.

The amendment of Mr. L. Larson was rejected.

The substitute of Mr. Thurman was adopted.

Section 14 was read.

Mr. BUYS. Mr. Chairman, I move to amend section 14, by striking out the word "and," in the second line, and inserting after the word "qualification" the words "and returns," so that it shall read, "each house shall be the judge of the election, qualification, and returns of its own members," etc.

The amendment was rejected.

Sections 15, 16 and 17 were read.

Mr. BUYS. Mr. Chairman, I move to amend section 17, by inserting after the word "governor" the words, "or the person exercising the functions of governor."

No second.

Section 18 was read.

Mr. SQUIRES. Mr. Chairman, I notice in section 16 we provided that each house shall determine the rules of its proceedings. Why shall we say that the ayes and nays shall, at the request of five members of any house, be en-

tered upon the journal? I move to strike out section 18.

Mr. CREER. Mr. Chairman, I think that ought not to prevail. Each house is required to keep a journal of its proceedings. I think in framing a constitution it should be directory and positive in that matter. It seems to me it is proper that that provision should remain there.

Mr. SQUIRES. Mr. Chairman, I will amend the motion to strike out all after the word "public."

Mr. RICHARDS. Mr. Chairman, I hope this motion will not prevail. There is no conflict between sections 16 and 18. Section 18 is simply a limitation on section 16. That is to say, neither house would have any right to make a rule that would not permit the calling of the yeas and nays upon the request of five members. I think that is a proper matter for insertion in the Constitution. It is usual and there is really no conflict whatever, as I read it. Of course, the house makes its rules, but it could not make a rule doing away with this provision.

Mr. SQUIRES. Why don't we include in there how the previous question shall be taken and whether a motion to lay on the table should be in order? I think we are providing for rules in the house. We provided for that in section 16.

Mr. VAN HORNE. Mr. Chairman, there are some things that properly go into a constitution as a matter of limitation on the legislature. The legislative article is the one of all others where legislation, if any at all is permitted, should be allowed, because that is the portion of the Constitution which shall govern the legislative department. Now, the object of such a section as this is manifest, I take it, to every member. We provide that they may make their own rules—all ordinary rules they may make, but suppose they wanted to make a rule that they shall not publish their journal? Suppose

they wanted to do something that they were afraid to have the people know by the publication of the journal——

Mr. SQUIRES. We are not discussing that.

Mr. VAN HORNE. I was simply calling attention to the fact that the people who give it a moment's consideration only are attempting to upset the consensus of the opinion of the committee who gave it hours of consideration. The same question is as to the yeas and nays. The Legislature might say, "we are willing to carry this thing through." Some men might stand up there in defense of the rights of the people, and of the freedom of speech, or something else that the Legislature was attempting to infringe. There might be a wrong contemplated by the majority of a Legislature, perchance, and they might say, "we will establish a rule contemplating that the yeas and nays shall not be called, and nobody shall be put on record as to how you vote on this question." The purpose of calling the yeas and nays, and fixing it so that the house could not establish a contrary rule, is in the interests of men being able to force the legislators to put themselves on record, in case they are attempting to pass any law that is against the interests of the people, and I think a simple consideration of that should make the members of this Convention loth to strike out that provision.

The amendment to the amendment was rejected.

The amendment was rejected.

Section 19 was read.

Mr. EICHNOR. Mr. Chairman, I move to amend section 19 by striking out, in lines 2 and 3, the words "except the senate while sitting in executive session." One of the great objections to the senate of the United States to-day is that they go into executive session and no one knows what is going on there. I think it is a good plan in Utah to have our Legislatures act with open

doors; that the senate cannot go into executive session and just transact business in there and open the doors and say "we have done this." I believe in legislating with open doors, whether it is in the lower house or in the upper house. It is a relic of barbarism for any legislative body to go into secret session.

Mr. SMITH. Mr. Chairman, I certainly take issue with the gentleman. It seems to me it is a prudential proposition in the Constitution. There are cases where it would be impossible and would be altogether wrong that public questions should be thrown open to the public and should not be considered in private session. Our nation would be in danger. Every nation in the world would be, in its upper branch, in propositions affecting international questions, if they were in a position that they could not retire into secret session.

Mr. CREER. Mr. Chairman, I think it would be very proper that the upper house should have the privilege of going into executive session. Supposing that the question of a man's character or ability should be discussed. That is, the appointment to certain offices recommended by the governor, that would have to be confirmed by the senate. It seems to me they should have the privilege of going into executive session and discussing his ability or his private character, in regard to his fitness for that office. That is all they want to go into executive session for.

Mr. RICHARDS. Mr. Chairman, I desire to remind my colleague from Salt Lake that senates do not legislate in executive session. That was the objection that he made. They ought to legislate publicly. I fully agree with him in relation to that. The object of the executive session, as I understand it, and the practice has been in the senate of the United States and in other senates in this country, is to consider the question of confirmation of officers

and in those cases, as has been stated by the gentleman from Utah County, the question of character arises. An investigation is had and free discussion is necessary as to the qualification of the individual for the position, and certainly no good purpose could be served by having those things made public. If a man got up and made inquiry as to the qualification, either morally or otherwise, of a candidate for a position—some one who had been nominated to an office, the answer that might be given and the discussion of the matter certainly would not be profitable to the public. They investigate it in private. They come to a conclusion. If for any reason whatever they conclude that the man is not fit for the position, they simply reject, and that is the end of it. If he is qualified, they can confirm. Now, that is, as I understand it, always done in executive session.

Mr. EICHNOR. Mr. Chairman, I will say this, that if there is any opportunity to besmirch a man's character, it is by the closed doors. If I am ever an applicant for any office, I would want the senate to sit with open doors. I have never done anything in my life I am ashamed of, and I hope no other man on this floor has, and I believe that behind closed doors is the time you can assassinate a man's character. That is the very gist of this proposition. Just close the doors and then the enemies, whether they be political or otherwise, say, "why he has done this, he has done that." No one knows anything about it. The man outside has no redress. He does not know how he is killed off behind closed doors. I think it is a star chamber proceeding.

Mr. VAN HORNE. Mr. Chairman, it is granted commonly, I believe, that the principal duty of a senate sitting in executive session is the question of the confirmation of appointees of the governor or their rejection. That is, in the ordinary affairs of a state. The term itself, "executive session," bears some-

thing further than that weight. It is an executive session, which deals with the co-ordinate branch of the government on matters that pertain to the two alone. In case of invasion or rebellion, we have a provision that our senate is elected for a considerable term and can be called by the governor. It might be necessary for the governor to do something or propose something to the senate by which a danger might be averted. The executive session would be the action of the senate upon a measure of the executive, with regard to something of public interest that lies for decision between the two, and while there might be in ordinary affairs of the State only the confirmation of officers, in extraordinary affairs of the State the executive session of the senate might include the senate's advice upon something where the whole object of that advice would be made of no effect at all if it was to be with open doors, and it seems to me the provision is so universal in all the constitutions, including the Constitution of the United States, that I am surprised at an objection being made to it.

Mr. EICHNOR. Do you say it is in all the constitutions?

Mr. VAN HORNE. Yes, sir; it is universal.

The motion was rejected.

Section 20 was read.

Mr. RICKS. Mr. Chairman, I move to strike out the word sixty, in the third line, and insert the word forty.

Mr. BOWDLE. Mr. Chairman, I move to amend the amendment by striking out the word forty and inserting the word fifty.

The amendment and the motion were rejected.

Mr. STOVER. Mr. Chairman, I propose as an amendment to section 20, in line 2, strike out the words, "except the first, which may sit ninety days." I think that sixty days is the length of time that is sufficient for the first session as well as any other, and it should

not exceed forty days, but the first session should be not longer than sixty days.

Mr. VAN HORNE. I will say, Mr. Chairman, that the committee gave very careful consideration to that question of the first session of the Legislature, and I will call the attention of the members of this committee to the fact that the ordinary Legislature—as a rule a code of laws which have been in operation for some years and which have been found more or less effective certainly for the administration of justice and for supplying the wants of the people—the duty of the first session of the Legislature under a State would be the establishment of a code of laws to govern that State—if ordinarily forty days is sufficient for a Legislature to simply make amendments to the laws as the amendments may suggest themselves during the times between the sittings of Legislatures, certainly twice that amount of time is necessary to leave as the maximum in which the first Legislature may devote their time to the question of settling, revising, and passing a code of laws for the government of the State.

Mr. CREER. Mr. Chairman, I would offer an amendment to the amendment, by inserting between the word “sit” and “ninety” the words “not to exceed.”

Mr. VAN HORNE. I call the gentleman's attention to the fact that this does not say that they shall sit ninety days, but they may sit ninety days.

Mr. CREER. It will emphasize that a little stronger.

The CHAIRMAN. The chair hears no second to the amendment.

The motion of Mr. Stover was rejected.

Mr. VAN HORNE. Mr. Chairman, I have an amendment to propose, just in the line of making the two portions of the section agree with each other, by striking out the word “each,” at the beginning, and say “no,” and strike out

the word “not” at the beginning of line 3.

The amendment was agreed to.

Mr. RICKS. I move to strike out the word “sixty,” in line 3, and insert “forty-five” in lieu thereof. I believe that any ordinary Legislature can transact all necessary business in forty-five days. From what little observation I have had in that line, it proves to me that a session for sixty days, about the first thirty days is spent about as we spent the first thirty days here, doing nothing excepting to complete the labors in time to adjourn before the sixty days is up, and I believe if the time is less that they will commence to work from the first day, realizing that they have but a short time and they will get the work done just as readily as they do in sixty days.

Mr. THURMAN. Mr. Chairman, I trust this amendment will not be made. If the gentleman had ever had any experience in sitting in a legislature, he would find that sixty days is little enough. Besides, the Legislature is not compelled to sit for sixty days. They are not to exceed that. If they can transact the business and get through they will adjourn, if it is in forty-five days, or thirty or twenty-five. The fact is, when we speak of the first thirty days being thrown away, it would be so if we had only forty-five days. It takes just about so long to get to business, and I think we ought to have sixty days. We have had it in the Territory since the foundation of it, and it has always been found necessary, and even then the last day we have had to crowd business through in a way that was exceedingly dangerous.

Mr. RALEIGH. Did you ever know a Legislature not to use the extreme limit?

Mr. THURMAN. No, sir; and that is my point. They needed it all and more too in Utah.

Mr. RALEIGH. I am in favor of curtailing it.

Mr. HEYBOURNE. I am not in fa-

vor of the amendment. Perhaps it is a matter of economy to cut down the time of the Legislature, but I think if it should prevail it would be a matter of very poor economy. With my observation, Mr. Speaker and gentlemen, I find that the limit of sixty days is not any more time than what is really necessary. With that limit, my experience has taught me that there have been very many important measures hurried through. It is true that a few of the opening days of the session are not taken up and the time utilized to the very best advantage, but I fear that if the time is cut down that measures may be passed that will work a hardship and we would be sorry for it after. Therefore, I trust that the amendment does not prevail and that the sixty day limit will succeed.

Mr. ROBERTS. I only want to call attention to just one fact in connection with this amendment, and that is, that if the Legislature of the Territory needed sixty days, I am very certain, sir, that the new State will need the sixty days, for the legislative duties of the State will be very much increased over the legislative duties of the Territory.

MR. FARR. My experience in legislating has been that when Congress gave Utah the right to make laws, they gave us forty days, and I am aware that it worked a little hardship, for most of us had to work in the forenoon, from 10 o'clock until 12, and then from 2 until generally about dark, and then after supper get together and work until 10 or 12 o'clock at night. We went through it all right and got through in forty days. And consequently I am in favor of limiting the time. I may be a minority on it, but I am in favor of limiting the time to the lowest time that has been put here.

Mr. PETERS. The gentlemen suggested that during his experience as a legislator, they convened for forty days, but if my recollection serves me

right, they met forty days in each year, did they not?

Mr. FARR. No, sir; every two years. At no time only once in two years.

The amendment offered by Mr. Ricks was rejected.

Mr. RICKS. I move to strike out the word "thirty," in line 6, and insert in lieu thereof the word "twenty."

The amendment was rejected.

Mr. BOYER. I move to amend by striking out, in line 2, the word "ninety," and inserting "seventy."

The amendment was rejected.

Mr. PAGE. I move to strike out all the section after the word "days," in line 5.

The amendment was rejected.

Sections 21 and 22 were read.

Mr. RICKS. Mr. Chairman, I move to strike out, in line 5, the words "or lieutenant governor."

The amendment was agreed to.

Mr. LAMBERT. Mr. Chairman, I move to amend, on line 5, after "governor," to insert "or secretary of state."

No second.

Sections 23 and 24 were read.

Mr. VARIAN. Mr. Chairman, I notice that the word "copy," in line 3, refers to impeachment. I do not know what a copy of an impeachment is. Impeachment refers to act. It is carried out by specification of the articles. I move to insert after "copy" the words "of the articles."

Mr. RICKS. I would suggest, would not "notice" answer just as well—insert notice instead of copy?

Mr. VARIAN. I will state why a simple notice would not be sufficient. The articles of impeachment, as I understand it, are in the nature of an indictment or a bill of particulars. They sometimes include more than one specification, in many instances numbering fifteen or twenty. The articles ought to be served as prepared upon the accused.

Mr. VAN HORNE. I would like to ask you if you would include in your

motion the word "service" for the word "notice," in the fourth line?

Mr. VARIAN. Yes, as this is simply to correct the context, with the permission of the committee and the chair, I will include striking out "notice" in the next line, and inserting "service." That would make the arrangement proper.

The amendment was agreed to.

Sections 25 and 26 were read.

Mr. FRANCIS. Mr. Chairman, I move that we insert after the word "times," in the sixth line, before the word "and," in the seventh line, the words "on three different days," so that the bill will have to be read on three different days, that they would not be able to pass a bill through both houses in half an hour as has been done sometimes.

Mr. VAN HORNE. Mr. Chairman, I call the attention of the gentleman to the fact that a bill might be returned by the governor toward the close of the session and that there might not be time to cure a defect, and for that reason it was thought best to leave that question to the Legislature, which might pass by their rule something of that sort and then suspend the rule, if necessary.

Mr. GOODWIN. Mr. Chairman, as the amendment reads all bills would have to be read nine times—three times on three different days.

Mr. VARIAN. Mr. Chairman, it is almost generally the case, I believe, that necessities arise toward the close of a session when bills must be put through in less than three days. That ought to be left to the discretion of the Legislature, subject to the just public opinions. Many times—in fact, I apprehend in nearly every case where a Legislature convenes—important questions arise at the last hour which require prompt action. I see no reason why we need fear the Legislature sitting in open session, under those circumstances.

Mr. FRANCIS. Mr. Chairman, I wish to say that though occasions may arise when they may have to pass the bill in

such a way that it is often likely to be abused, and I will cite for instance the measure that passed our last Legislature with regard to the inspection of meats. I understood from gentlemen who are interested in the business that this measure was brought up three times during our Legislature and each time it was defeated, but during the last hours of the Legislature, without any notice at all being served on those who were connected with the business, that measure was brought up and finally passed and they had no opportunity of objecting to it, so that it looks as if this measure might often be abused without such a provision as this being put in.

Mr. RICHARDS. I desire to call attention to the fact that however much danger there is the provision might be abused, that if it were inserted here in the Constitution it would be absolutely impossible for the Legislature to suspend the rules and operate otherwise. The great danger and harm that might result from their inability to act in an emergency of that kind it seems to me would outweigh all other considerations. I think the section ought to remain as it is.

The amendment was rejected.

Section 27 was read.

Mr. VAN HORNE. Mr. Chairman, I would suggest as a matter of clearness in the phrase of that section that it should begin with the word "except;" it is a mere matter of arrangement. It seems to me if we put the word except at the beginning of the section—

Mr. THURMAN. Leave it to the committee on arrangement.

Mr. VARIAN. I would like to ask the purpose of the last four lines? That is simply a declaration, as I understand it, of constitutional law. Is the rule any other way now? Can the court ever hold any other way? The act is only void as to the parts so expressed. I suggest unless there is some reason that the chairman of the committee de-

sires it in that we strike it out after the word "laws." I move to strike out all after the word laws, in line 5.

The motion was agreed to.

Mr. VAN HORNE Do I understand that we have the consent of the Convention to make that change I suggested as a matter of order?

Mr. RICHARDS. I object, Mr. Chairman, I think it is better as it is.

The CHAIRMAN. The chair would regard it as a matter that would probably be considered by the committee on compilation and arrangement.

Mr. BUYS. Mr. Chairman, I seem to be very unfortunate this afternoon. It seems strange that out of 106 intelligent men here I can only get one to agree with my ideas.

Mr. SQUIRES. That was the way I was fixed this morning.

Mr. BUYS. I wish to amend section 27 by adding to the section the following:

The general appropriation bill shall contain no item or items of appropriation other than such as are required to pay the salaries of State officers, the necessary expense of the government, and of the institutions under the exclusive control and management of the State, and no bill making an appropriation of money except the general appropriation bill shall contain more than one item of appropriation and that for one single and certain purpose to be therein expressed.

The reason I wish this amendment is that I do not think that the Legislature should have the right if they wish (and sometimes we find they do wish to do so), to incorporate anything that they wish in a general appropriation bill. I think that the appropriation bill should only contain such items as are mentioned here, and that if they wish to have appropriations made they should be made separately—have a bill passed separately and not allow the Legislature to incorporate anybody that a person may wish to get an appropriation for—allow the Legislature to pass that too in the general appropriation

bill. I do not think it is right and I think that the amendment should pass.

Mr. VARIAN. I would like to ask why—what is the objection to it?

Mr. BUYS. Because they are not considered. Very often an appropriation is not considered fully; and another thing, very often many of these items could be defeated if they were put otherwise, but they do not wish to defeat the whole appropriation bill and for that reason it is passed in that form.

The amendment was rejected.

Section 28 was read.

Section 29 was read.

Mr. VARIAN. Mr. Chairman, I do not know whether it would be determined to retain the subject matter of this section under the head of the legislative article or under the head of executive. I do not know as it makes any difference, but if it is to be retained here, it seems to me some provisions incorporated in section 8 of the executive article ought to be added to it. For the purpose of informing the committee as to what I have in mind, with your permission I will just read. I think as far as this section has gone it is just as appears in section 8 of the article on executive, but that section includes this further matter:

If any bill presented to the governor contains several sections or items, he may object to one or more sections or items while approving other portions of the bill; in such cases, he shall append to the bill at the time of signing it a statement of the section or sections, item or items, which he declines to approve, together with his reasons therefor, and such sections, item or items shall not take effect unless passed over the governor's objection as in this section hereinbefore provided.

This would obviate in some degree the objections suggested by my friend from Wasatch County, in the previous motion, and as I think it is utterly immaterial whether it appears in the legislative article or the executive article, I move as an amendment to this section, leaving the question to be determined

hereafter by the committee on compilation and arrangement, the words I have written, taking it from section 8 of the executive article.

Mr. VAN HORNE. No objection.

The amendment was agreed to.

Mr. PETERS. Mr. Chairman, inasmuch as we have passed section 8 of the article on executive in the committee of the whole, I move we strike out all of this section 29.

Mr. VARIAN. To test the sense of the house, I will withdraw my motion for the present.

Mr. VAN HORNE. Mr. Chairman, I hope that motion will not prevail in just that way. I have no particular objection to both of these sections going to the committee on compilation and their choosing therefrom one or two things, perhaps that are better in one than in the other, and they are the same except the matter of arrangement.

Mr. VARIAN. They are just the same. I have compared them.

Mr. VAN HORNE. For instance, with reference to its becoming a law without the signature of the governor. Section 8 says it shall become a law in like manner as if he had signed it, as I remember the reading, and I think it says without his signature. This is shorter and fully as clear. There are some matters of simple arrangement and wording and it seems to me it might be just as well to let both of these go to the committee and let them choose the wording and the revision.

Mr. VARIAN. I think the reading is exactly the same, except that in one it is five and in the other ten.

Mr. RICHARDS. Mr. Chairman, of course we do not want both of these articles in the Constitution, but section 29 as proposed to be amended by Mr. Varian is, I think, what we want, and I understand there is some difference between that and section 8. As to whether it should go in the legislative article or the executive article, I think

that is a matter that should be left to the committee.

Mr. LOW (Cache). Mr. Chairman, I am in favor of striking out this section. It is almost identically the same language contained in section 8 of the executive article. I believe that that section should remain in the executive article, more especially since it refers to the power of the governor, and if for no other reason, I would be in favor of retaining it in that article.

The motion to strike out section 29 was agreed to.

Section 30 was read.

Mr. CANNON. I would like to ask the chairman of the committee if they considered this second clause, changing the name of persons. I believe it has been the habit in our Legislature, at different times, to change the name—legalize the names of different people, especially foreigners, who come here and had been using a name under a misapprehension.

Mr. VAN HORNE. In answer to the question, I will say that while that was the practice in the Territory of Utah for a considerable time, the power to do so was taken away from the Territory by Congress of the United States. The objection, as I take it, to the Legislature being called upon to do matters of that sort by special act is the question of time. One question is the question of time. To take up the time of sixty-three members elected by the people of the various sections of this country, and coming here at the munificent reward of four dollars a day to serve the people to change somebody's name, when a law can easily be passed that by making certain declarations in a court the name could be changed, would be something of an anomaly in an economical administration of government.

The CHAIRMAN. There is nothing before the house.

Mr. BUYS. Mr. Chairman, I have an amendment that I wish to have read. I do not suppose I can get a second. I got one the first time and two the

second and I hope to get three on that one.

The amendment proposed by Mr. Buys was read as follows:

To section 31. By adding after subdivision 11 the following:

12. For the assessment or collection of taxes; 13. For the limitation of civil or criminal actions; 14. Exempting property from taxation; 15. For the punishment of crimes and misdemeanors; 16. Giving effect to invalid deeds, wills, or other instruments; 17. Changing the law of descent or succession; 18. Summoning or empaneling grand or petit juries; 19. Regulating the jurisdiction and duties of justices of the peace, police magistrates, and constables; 20. Regulating the practice in courts of justice; 21. The opening or conducting of any elections or designating the place of elections; 22. Regulating the interest on money.

The amendment was rejected.

Mr. WELLS. Mr. Chairman, I move to strike out subdivision 9, of section 31. The bill of rights, section 24, covers it. That has been adopted and passed its third reading.

The motion was agreed to.

Mr. VARIAN. Mr. Chairman, I think there is some misapprehension about that subdivision 9. Unfortunately I did not vote in the affirmative or I would move to reconsider it. I want to call attention to the fact that section 24 of the declaration of rights covers generally the subject. This article is designed to prevent special legislation. It is only relating to private or special laws. Section 9 prevents the granting to any individual, association, or corporation any irrevocable privileges, etc. It means that no special or private law might be passed in that particular. It is the only prohibition, as I understand it, that you have on the subject. If you strike it out it is not fully covered by section 24 of the bill of rights.

Mr. PETERS. Mr. Chairman, I voted in the affirmative. I move that the vote by which subdivision 9 was stricken out be reconsidered.

Mr. VARIAN. Let us reconsider it, and if we find that my objection is not well founded, it can be corrected at any time on the third reading.

The motion to reconsider was agreed to.

Sections 32, 33, 34 and 35 were read.

Mr. BUYS. Mr. Chairman, I move to strike out section 35, as it is covered by section 2 of the apportionment article.

The motion was agreed to.

Mr. EICHNOR. Mr. Chairman, I now propose in the way of amendment to the article a new section which should really follow section 33, but I introduce it as section 35, as follows:

The Legislature shall not pass any law authorizing suits to be brought against the State.

Mr. VARIAN. I would like to hear from the mover of that motion what good purpose he hopes to subserve by it. I would like to know at this stage, why the State should not be sued under such circumstances and limitations as may be prescribed by law. Every state in this Union, or most of them, I presume, provide for suits in certain instances. The United States government provides for it. It ought to be left to the Legislature to determine that question.

Mr. THURMAN. How is Wyoming on the subject?

Mr. EVANS (Utah). Or Washington?

Mr. EICHNOR. The state of Arkansas provides that the state shall never be made defendant in any suit in any of her courts.

Mr. VARIAN. She repudiates her bonds, then.

Mr. EICHNOR. The state of Illinois provides that the state shall never be made a defendant in any court of law or equity.

Mr. VARIAN. What does Washington say?

Mr. EICHNOR. I do not know. Now, Mr. Chairman, I think the state of Kentucky has a similar pro-

vision. I have not examined the late constitution of the state of Kentucky on that point, but in the constitutional convention of the state of Kentucky, of 1890 and 1891, possibly as much time was spent on this question as on any question before that convention, and they came to the conclusion there, that a state should not be hampered with suits, and that is my idea that the new State of Utah should not be hampered with suits, and that is the reason that I introduced that additional section. I believe the State should not be hampered in any way, shape, or form, with suits.

Mr. VAN HORNE. The government of the United States provides for a court of claims, before which, where there would ordinarily be a defendant in a suit, a man may bring his claim and have it passed upon, and if the claim is allowed, the government pays it. It seems to me, unless we are to provide in our judicial article for a court of claims, there is nothing in the world that would prevent a man that thought he had a just claim against the State, from suing the State in the courts of the State, and if they decided that the claim was just, undoubtedly they would make recompense.

The section offered by Mr. Eichnor was rejected.

Mr. EVANS (Utah). Mr. Chairman, I move that we now rise and report.

The motion was agreed to.

The committee of the whole then rose and reported as follows:

Your committee of the whole have had under consideration the proposed article, legislative department, and report progress.

Mr. RICKS. Mr. Chairman, I move we take a recess until 7:30 p. m.

The motion was rejected.

The Convention then, at 5:05 o'clock p. m., adjourned.

THIRTY-NINTH DAY.

THURSDAY, April 11th, 1895.

The Convention was called to order at 10 o'clock a. m. by President Smith.

Roll call showed a quorum present.

Prayer was offered by Reverend R. G. McNiece, of the First Presbyterian Church.

The President called Mr. Eichnor to the chair.

The journal of the thirty-eighth day's session was read and approved.

Petitions and memorials.

The following petitions were presented asking that the question of woman's suffrage be submitted as a separate article to the vote of the people.

File No. 246, signed by J. H. Brown and 36 others, from Salt Lake, by Hill, of Salt Lake.

File No. 247, signed by S. H. Lynch and 32 others, from Salt Lake, by Mackintosh, of Salt Lake.

File No. 248, signed by Albert Stevens and 9 others, of Holden, by Crane, of Millard.

File No. 249, signed by Richard Williams and 52 others, of Park City, by Kearns, of Summit.

File No. 250, signed by Wm. D. Smith and 125 others, of Coalville, by Kearns, of Summit.

File No. 251, signed by Thos. D. Pitt and 77 others, of Corinne, by Roberts, of Davis.

File No. 252, signed by Ripley S. Lyon and 181 others, of Logan, by Roberts, of Davis.

File No. 253, from citizens of Ogden in mass meeting assembled—434 for separate submission and 28 against, by Kiesel, of Weber.

Ordered filed.

The following petitions were pre-

sented asking that an equal suffrage clause be placed in the Constitution:

File No. 254, signed by Sarah M. Dell and 272 others, of Beaver City, by Murdock, of Beaver.

File No. 255, signed by Ann E. Webster and 443 others, of Ceder City, by Heybourne, of Iron.

File No. 256, signed by I. O. Wall and 104 others, of Wallsburg, by Murdock, of Wasatch.

File No. 257, signed by Hyrum Defries and 141 others, of Fairview, by Peterson, of Sanpete.

File No. 258, signed by H. E. Desaulles and 32 others, of Piute County, by Allen, of Piute.

File No. 259, containing 1,313 names from Salt Lake City; 121 names from Grand County; 229 names from Emery County; 266 names from Juab County; 85 names from Tooele; 248 names from Grantsville; 1,110 names from Utah County; 128 names from Pleasant Green; 159 names from Iron County; and 25 names from various points in the Territory, by Chidester, of Garfield.

Ordered filed.

Mr. Raleigh, of Salt Lake, presented file No. 260, signed by 30 ministers of the different denominations of Salt Lake City, asking that the question of prohibition be submitted as a separate article to a vote of the people.

Referred to committee on schedule, future amendments and miscellaneous.

The committee on education and school lands reported as follows:

Constitutional Convention Hall,
April 11, 1895.

MR. PRESIDENT:

Your committee on education and school lands present herewith an article upon the subject of education and recommend that it be put upon its passage.

FRANK PIERCE,
Chairman.

Ordered printed and referred to the committee of the whole.

Mr. RICKS. Mr. President, I move we resolve ourselves into committee of

the whole and take up the regular order.

The motion was agreed to and the Convention resolved itself into committee of the whole, with Mr. Squires in the chair.

COMMITTEE OF THE WHOLE.

The article on legislative was then considered as follows:

Mr. RICHARDS. Mr. Chairman, I ask that the section reported by the minority of the committee be read.

Section 1 was read.

Mr. RICHARDS. Mr. Chairman, I desire to say in regard to this section, in behalf of the minority of the committee, that the purport of the section of course is apparent and must be to the members of the Convention. In the opinion of the minority of this committee, it is no part of the duty of the government to engage in business or private enterprises. In their opinion the public funds that are derived from the taxes of the people ought to be devoted strictly to governmental purposes, and it is with a view to accomplish that that this section is proposed. The minority of the committee think that this provision should be inserted in the Constitution. As I understand it, the duty of this Convention in relation to this particular article is to provide for the legislative department of the government, and to provide such restrictions upon the legislative department as should properly be imposed. We think that this is one of the restrictions that ought to be imposed, that the State ought not to be authorized to engage in any business enterprises, construction and operation of railroads, or the building of manufactories of any kind or the giving of support by public money to any such enterprises, or for any purpose except strictly governmental purposes, and that is why this section is proposed.

The CHAIRMAN. Where do you desire to insert that?

Mr. RICHARDS. We desire to have

this follow the sections that have already been passed upon by the committee. It would be section 35, I think. I am not sure but what some sections may have been stricken out, but we desire to have it the next section after those that have been passed

Mr. RICKS. Mr. Chairman, if there is no motion before the house in regard to this, I move that we adopt the report of the legislative committee as we have passed it.

Mr. RICHARDS. I supposed that the report of the minority committee placed this in the attitude of being in the nature of a motion to put this in the article without a special motion to that effect. If such a motion, however, is required, I make the motion that this section be added to the article.

The question being taken on the motion to adopt the section, the committee divided, and by a vote of 43 ayes to 50 noes, the motion was rejected.

Section 2 was read.

Mr. RICHARDS. Mr. Chairman, I move that this section be added to the legislative article, and I desire to say in explanation of this section that it is intended to prohibit the State from subscribing to the capital stock of any association, corporation, or company. It is intended to prevent the pledging of the credit of the State for any private enterprise whatever. The reasons that I have already assigned as to the first section will apply as reasons why the committee think this should be incorporated in the legislative article. A great deal has been said during the session of this Convention as to the financial condition of the Territory and the embarrassments that the new State will be under in supporting its government. And yesterday a great deal of time was consumed over the compensation that should be paid to the members of the Legislature. A great deal of discussion as to whether the Legislature should be permitted to pay four dollars a day or whether they should be restricted to the

payment of two and a half, for the legislators. Now, it seems to us that if that is a matter of such importance as some gentlemen on the floor of this Convention seem to think, that here is an excellent opportunity to interpose some restrictions in the way of the Legislature that will be beneficial and substantial and not go to a few dollars—a dollar and a half or two dollars a day, on the question of legislation which would amount to but a few hundred dollars. This restriction would perhaps prevent tens of thousands or hundreds of thousands of dollars being given in the way of bonuses to railway companies and manufacturing institutions. We think that this section ought to be added to the article.

The question being taken on the motion to adopt the section, the committee divided, and by a vote of 45 ayes to 52 noes, the motion was rejected.

Section 3 was read.

Mr. RICHARDS. Mr. Chairman, I move that section 3, just read, be added to the article on legislative. It will be observed that the purport of the prior section was to prevent the State from lending its credit. The object of this section is to prevent the Legislature from empowering any city, town, township, county or other political subdivision of the State from lending its credit or aid in any of these private enterprises.

The question being taken on the adoption of the section, the committee divided, and by a vote of 44 ayes to 52 noes, the section was rejected.

Section 4 was read.

Mr. RICHARDS. Mr. Chairman, I move that section 4 be added to the legislative article. I desire to say, Mr. Chairman, to the gentlemen of the committee that this section does not in my opinion partake of a partisan character, and perhaps there may be gentlemen enough on this floor, who would be willing to support it. The object of this will be clear to gentlemen who will

stop and consider it for a moment. It is to prevent people who are in power in any department of the State occupying public positions from letting contracts, at low figures and then afterwards increasing the amount of compensation in this way: A man who is a favorite with a county court or a city council or with any other public officer, who might have it in his power to let public contracts, might come in and underbid all bona fide bidders for this work and get the contract, with the understanding afterwards that if the work cost him more, he would be reimbursed by the county or by the city as the case might be. This is an evil that has occurred a great many times in different places as you are all aware if you have given this matter any consideration, and the object of this is to prevent that sort of thing and to compel bona fide transactions in the letting of public contracts. Also if any unauthorized agreement is made, as for example, to prevent an officer of a city or a county or of the State who has no authority in law from going out and letting contracts to some favorite, when if the contract was let in the regular way the public would have an opportunity to bid—declaring that such contracts would not be valid and could not be enforced. And I say, I do not see, and I do not believe that there is anything in this section of a partisan character. Whether it is such a section as you gentlemen approve of, or not, of course remains to be seen by the vote, but it seemed to the minority of the committee that it would be a proper provision to insert in the Constitution. It appears in the constitutions of other States. I think that this particular provision is taken from the constitution of the state of Missouri.

Mr. KIMBALL (Weber). Mr. Chairman, I move to amend that section by striking out, beginning with the word "and" in line 11, and ending with the last word in the section. I do that for this

reason, that I think all contracts that are made without authority of law are null and void without repeating it in here.

Mr. RICHARDS. I agree with the gentleman on that proposition.

The amendment was agreed to.

Mr. VAN HORNE. Mr. Chairman, I agree with the gentleman that there is nothing particularly partisan in this provision that is proposed to be introduced here. I think, however, there are some things that are very objectionable in it. In the first place it is a limitation on the power of the Legislature that seems to me unnecessary and out of line with the proper construction of the Constitution. In the second, it does not provide any way in which an uncontracted service—one that is done without a contract being made for it, could be paid for. In the third case, that suggests itself at once, it seems to me, to every one in the exercise of the power of the State, to repel invasion or suppress rebellion, that a great many things are done by a state, under a stress of such an emergency as that, that are without authority of law. The United States government recognizes that in its court of claims. The claims for Indian depredations and matters of that sort, the claims for material furnished in time of war—under such a provision as this, there could be no payment by the State of the claim. And altogether with those facts being so, it seems to me that it is unnecessary, that we are just simply trying to do something here that we might fairly trust to the Legislature. I do not believe in the limitation.

Mr. RICHARDS. I would like to ask the gentleman from Salt Lake a question. Does not your objection only relate to the latter part of this section? That is, the objection that you have stated?

Mr. VAN HORNE. Part of it.

Mr. RICHARDS. As to unauthorized contracts?

Mr. VAN HORNE. Suppose an extra service—

Mr. RICHARDS. After the word "pay" in the seventh line—that is the part that relates to the objection, but the other part, as to the increase of compensation and the paying of an additional amount beyond the contract—what is the objection to that?

Mr. VAN HORNE. The objection I had to that, Mr. Richards, was this: Suppose a public officer, whose duties are defined, in case of a public emergency of some sort, performs duties at a loss to himself, that are wholly outside of the ordinary scope of his office, why should he not be paid for that? If the State or the municipality says that his services are worth pay and that he rendered them at a disadvantage to himself, why should they not recognize them?

Mr. RICHARDS. The answer I make to that is, that when a public officer assumes the office, he takes all these contingencies, and he ought to be made to bear these burdens, if they are burdens.

Mr. VAN HORNE. He takes it in the scope of his ordinary duties?

Mr. RICHARDS. He takes the emoluments and honors attaching to the office and also the burdens that will follow, and it seems to me it would be a very bad thing for the Legislature to have the power to increase salaries under those circumstances or under any circumstances. That is exactly the reason why the minority desire to see this thing.

Mr. VAN HORNE. You seem to be directing your argument towards an extra salary for the officers.

Mr. RICHARDS. Extra compensation of any kind, I care not whether it is salary or what.

Mr. VAN HORNE. Do I understand you as saying that a public officer, who accepts a public office, accepts it with the understanding that he performs all services for the State, regardless of

whether they are within the line of his duty or not, without compensation?

Mr. RICHARDS. No, sir; I did not say that.

Mr. VAN HORNE. Would not that be the effect of this amendment?

Mr. RICHARDS. No, sir; I think not.

Mr. VAN HORNE. Why not?

Mr. RICHARDS. I do not see how it is possible to give it that construction. The language does not seem to me susceptible of it.

Mr. BUTTON. I would like to ask a question. Under this clause, last year, when the governor ordered the deputy sheriffs out here when the commonweal army came through, could the sheriff collect pay for those deputies he swore in under this clause?

Mr. RICHARDS. I think so; I do not think this has any reference to that at all. There was service that he was performing that he would be entitled to pay for; but this is intended to cover a case where a person has undertaken to do a certain thing, either as a public officer, in the performance of his public duty, or as a contractor, under contract; he has undertaken to do a certain thing, and do it for a certain sum. Now, this is intended to prevent the granting of any additional sum afterwards, and the reason for it is just as stated in the illustration I made. If men would always bid honestly they would probably all get a fair compensation for their work.

Mr. BUTTON. So far as that goes, I think it is right.

Mr. RICHARDS. Why should not the same thing apply to a public officer? For example, should the county court or city council appoint a man to perform a certain public duty—that is, the office is created by ordinance or by statute, the duties of the office are defined, the man is elected or appointed to that position. He enters upon the duties of the office, he agrees to perform his duties, and after his term has expired or after a certain period has expired and the work

has been done, they come in and pay him more than his salary or than was provided by law for him to receive for this service. That is not right, and it is just to prevent those things that this section is proposed. Now, if the section is not properly worded, if the gentlemen can suggest amendments that will make it any clearer and more specific upon these points, there would be no objection on my part to receiving any such amendment, but those are the objects and purposes for which this section is introduced, and it seems to me that every member of this Convention ought to be willing to support that kind of a proposition.

Mr. KIMBALL (Weber). Mr. Chairman, I desire to move a further amendment to that section by striking out all of the section as it now stands after the word part, in line 7.

Mr. GOODWIN. Mr. Chairman, I have an objection to this section. We are anticipating in advance that the Legislature of the future would be composed of rogues or idiots. We have been talking several years about the vassalage of the territorial rule and we are putting a provision for vassalage in the Constitution. There will be a code of criminal laws to punish dishonest contractors. We are discounting the good faith of the Legislatures in advance.

Mr. PIERCE. Mr. Chairman, on the last proposition of Mr. Kimball's amendment, it seems to me that part of it any way ought to go out. I believe it is pernicious. If I understand that correctly, it would, for instance, prohibit any officer working for the county court—we will say, a road supervisor—from buying a shovel. If he bought a shovel, he could not come back and have the county court authorize that under this section, because the authority has not first been given by the county court, so that it seems to me that every idea of it should cause it to be stricken out.

Mr. RICHARDS. Does the gentleman hold that the road supervisor would not have authority to buy a shovel without an express order from the county court?

Mr. PIERCE. I simply use that for illustration. If he was an officer of the county court he would not have if they appointed him. If he was elected by law, he would.

Mr. RICHARDS. My understanding is that all of these officers have certain powers that attach to their office, and this of course would not interfere with the exercise of any of those powers to where an officer went clearly outside of his authority, then it might.

Mr. PIERCE. It would be an agreement or contract made without authority of law, if they bought the shovel and they had not the proper authority to buy it. To carry the illustration a little further, suppose a man that was working on the street bought a shovel that he thought was in the interests of the city and it was actually in the interest of the city, or in the interests of the county, the county court could not authorize payment for that shovel, neither could the city authorize it if he was working for the city.

Mr. ALLEN. Mr. Chairman, I have another thing in mind, that I remember transpired in one of the southern counties. A man took a job of building a bridge for the county, and he entered into the contract and he was building the bridge according to contract. When he got partly done, he found that if he built it according to contract, the bridge would be worthless or nearly so. Therefore, he went to work and made additional expense—put on additional work and afterwards brought in an extra bill and the court was glad that he had done it, because the bridge would have been useless without it, and was glad to pay him an extra amount, which was considerable, therefore, I think under this they could not have done so; therefore, I would

motion that this ought to be stricken out.

Mr. RICHARDS. May I ask the gentleman a question? Could not the same result have been accomplished, even if such a provision prevailed, by his reporting that fact to the county court and making an additional contract for the extra work, and would not that be the proper way to do it, instead of allowing the contractor to exercise his own judgment and discretion as to when he should vary from the contract?

Mr. ALLEN. That might be true. It might work in that way or it might not; I am not prepared to say.

Mr. JAMES. Mr. Chairman, I quite agree with Mr. Richards' position regarding this particular part of this section. But there seems to be such a difference of opinion among the legal gentlemen, that I believe the safe thing for this Convention to do is to reject the whole section. Allow it to go to the Legislature where they can legislate specifically, where they will know what they are doing, and that understandingly, and then we will make no mistake. This is a legislative matter that we should let alone and refer to our Legislature.

Mr. BOWDLE. Mr. Chairman, I believe that I should favor striking out the words intended in the amendment of the gentleman from Weber, but I would favor the retaining the remainder of the section. There certainly can no harm come to us by retaining the first part of the section. I should favor the striking out the latter part of that, because there might occasions arise in which the power that is sought to be limited there, ought to be used. That far I go, as to the other, I do not care to say anything now.

The question being taken on the amendment of Mr. Kimball, of Weber, the committee divided, and by a vote of 47 ayes to 51 noes, the amendment was rejected.

The question being taken on the adoption of the section, the committee divided, and by a vote of 51 ayes to 46 noes, the section was adopted.

Mr. Roberts offered the following as a section to be added to the legislative article:

Neither the State of Utah nor any political subdivision thereof shall become a stockholder in or loan its credit to nor make any appropriation for the benefit of any person, company, association, or corporation, unless two-thirds of the qualified voters at a regular election to be held shall assent thereto.

Mr. ROBERTS. Of course, Mr. Chairman, I look for the fate which has befallen the amendments offered or rather sections offered by the minority, for the reason that it involves a question of difference in regard to the policy of government, and as the majority on the floor of this house are not in favor of placing any limit upon the Legislature, in regard to the exercise of the taxing power, naturally they would be expected to vote against every proposition which would look to establishing such a limit. But if they refuse to place the limits upon the Legislature suggested by the minority of the committee on legislative, I think, sir, that at least there ought to be required in the exercise of so great powers such a majority behind the Legislature as to make two-thirds of the qualified voters interested in such proceedings necessary. The majority on this floor, I can very well understand will be satisfied to leave the Constitution silent upon this subject of taxation, for the reason that by that very silence they have what is equivalent to an affirmative of the right of the Legislature to loan its credit, to grant bounties, and to authorize subdivisions of the State to loan their credit and to pay bounties in the encouragement of enterprise.

Therefore, silence in the Constitution is to them equivalent to affirming that power in the Legislature, while the only

way that we who are in the minority could get an assertion in the Constitution of the principle in which we believe, is to place a limit in the Constitution on this subject. The taxing power of government, it is conceded by all, is the very highest expression of sovereign power. In the exercise of that authority is best seen the sovereign power of the State. It has always been by that means that tyranny and oppression have been expressed. In the days when arbitrary kings ruled that power was exercised without any control whatever, even the consent of those taxed not being expressed, and the whole fight for liberty has been along the lines of demanding modification of this taxing power in governments. It first came up upon the question that there should be no taxation without the consent of those taxed, and when our ancestors at last obtained that advantage, then the oppressive government still in existence sought to evade the direct issue by compelling the subjects of the government to grant loans and benevolences to the crown. This power in government was afterwards stricken down and the principle that there could be no just taxation without representation was asserted and this principle too was eventually won, its final victory being obtained on our own soil in this land of America. Since the settlement of that question, the war has been waged on the lines of the purposes for taxation; the doctrine and belief gradually becoming firmly established that there can be no just taxation, but for public governmental purposes.

The majority of the members of this Convention, however, are of the opinion that the taxing power of the government may be justly exercised in the promotion of private enterprises and to build up private fortunes, a doctrine to which, for one, I never can assent, for the reason that it involves the prosperity of the whole community. It makes it possible for the powers of

government to be so exercised that one class of the community may be made rich at the expense of another portion of the community. And in proof of these doctrines that I have laid down, I propose to read a brief extract or two from one of the highest authorities in the United States. I read from the opinion of Chief Justice Miller of the United States Supreme Court, in the celebrated Topeka bond case, where he says:

Of all the powers conferred upon government, that of taxation is most liable to abuse. Given a purpose or object for which taxation may be lawfully used and the extent of its exercise is in its very nature unlimited. It is true that expressed limitation on the amount of tax to be levied or things to be taxed may be imposed by constitution or statute, but in most instances for which taxes are levied, as the support of government, prosecution of war, national defense, any limitation is unsafe. The entire resources of the people should in some instances be at the disposal of government. The power to tax is, therefore, the strongest, the most prevailing of all the powers of government, reaching directly or indirectly to all classes of the people. The power to tax is the power to destroy. A striking instance of the truth of the proposition is seen in the fact that the existing tax of ten per cent imposed by the United States on the circulation of all other banks than the national banks drove out of existence every state bank of circulation within a year or two after its passage. This power can as readily be employed against one class of individuals and in favor of another, so as to ruin one class and give unlimited wealth and prosperity to the other, if there is no implied limitation on the uses for which the power may be exercised.

Mr. ANDERSON. Mr. Chairman, I arise to a point of order. According to amendment of rule 20, no member can speak more than five minutes.

Mr. SNOW. The gentleman can have my time.

Mr. HART. I give the gentleman my time.

The CHAIRMAN. The chair would rule that as long as the gentleman can secure time from his associates he should be allowed to speak.

Mr. RICKS. I appeal from the decision of the chair on that point.

Mr. CANNON. Mr. Chairman, I certainly am in favor of sustaining the chair. I think the gentleman has the right to speak as long as he chooses, where his colleagues have offered him their time. I do not think that the rule where it says he shall not speak at any one time more than five minutes means that he must speak five minutes, sit down, get up again and speak another five minutes and sit down. It would be ridiculous to put that construction upon it; and the rule is as the chairman has interpreted it.

Mr. HART. Mr. Chairman, the rule reported by the committee on rules covers this matter. Its terms are so definite, I do not think there will be any misunderstanding about it.

Mr. JAMES. While he is hunting that, I wish to say that I think there is no doubt about the position of the chair on this, but I think there is one matter that has been overlooked, and that is when one man rises to grant his time his name should be given and taken down.

(Mr. Hart reads rule 20.)

The decision of the chair was sustained.

Mr. ROBERTS. Now, Mr. Chairman, I trust the gentlemen have not forgotten the remarks of Chief Justice Miller, relative to the very great power of the government in the matter of taxing its people. It is a power that I grant you should be unlimited when it comes to be exercised in the preservation of the government. The amendment or section that I submit and ask to have made part of the legislative article does not undertake to limit the power of government when the question is as to the preservation of government. It is only to limit its powers in regard to the purposes for which it shall limit the exercise of that authority. Since this high authority has said that this taxing power is the one most liable to

abuse, certainly every guard that can be placed about it ought to be provided for in the fundamental law of the land.

The following doctrine has taken a firm hold on my convictions, and with that great authority upon the subject of government, now that we are laying the foundation of a commonwealth, I should say let us make laws or provide for the making of laws where there shall be no governmental partnership with favored classes. Let us protect all in life, liberty, and property and then say to every American citizen:

With the gifts which God has given you, your brain, and brawn, and energy, work out your own fortunes under a just government and equal laws.

Whenever government accomplishes that purpose it answers the end for which it is created. Gentlemen will remember very readily those immortal words in the Declaration of Independence:

We hold these truths to be self evident, that all men are created equal; that they are endowed by their Creator with certain inalienable rights, among which are life, liberty, and the pursuit of happiness. That to secure these rights, governments are instituted among men.

There you have the great doctrine laid down as to what the purpose of government is. It is to secure men in their inalienable rights of life, of liberty, of freedom to pursue happiness, of securing domestic tranquility and preserving society or the nation from invasion of foreign foes, and to secure men in these rights and the enjoyment thereof; and whenever government accomplishes that end, why that completes its mission. There is nothing in the mission of government, as understood by our American statesmen, that permits it of right to enter into co-partnership with any part of the citizens, looking to their enrichment, directly, and trusting to compensation to come

from the masses upon whom the few feed.

I wish to call attention to some disastrous calamities, which have overtaken at least some parts of our country, in departing from these fundamental principles. I select for an example of the mischievous effects from departing from these doctrines, the state of Tennessee, for the reasons, sir, that from 1880 to 1886, I spent the greater part of my time in that state and became somewhat interested in its political affairs, and had an opportunity in the city of Nashville of attending the meetings of the legislature when involved in one of the most interesting discussions that ever occurred in that state. About 1851, the internal improvement act was passed by which it was made possible to use the credit of the state for such internal improvements, and the counties and towns could do the same. No sooner was this internal improvement act passed and the credit of the state was at the disposal of those engaged in internal improvements, than the legislature was besieged, companies were organized, railroad building almost became a mania in that state, and, sir, there was no letting up on the part of enterprising companies in their petitions for state aid, in furthering their enterprises, until the state of Tennessee was plunged into debt from forty to forty-two millions of dollars.

In 1870 the state constitutional convention of Tennessee met and adopted this amendment, which I have proposed. In 1870 that was incorporated into the state constitution of Tennessee, and it had the tendency to check the evil of plunging the state further and still further into debt, because, sir, it was extremely difficult to get two-thirds of the inhabitants of the state or any political subdivision thereof, to vote to lend its credit in the furtherance of private enterprise, but the evil had been done. The debt of over forty millions of dol-

lars had been contracted, and I very well remember the message which the governor of the state sent to the legislature in 1883, in which he called attention to the fact that notwithstanding all the splendid resources of the grand old commonwealth of Tennessee, notwithstanding its salubrious climate, notwithstanding its immense forests, notwithstanding its fertile fields, its industrious inhabitants, that state was being outstripped by neighboring commonwealths and that for the reason that the whole state was helplessly and hopelessly in debt, and proposed some new adjustment of the debt of the state. In other words, sir, the state was confronted with repudiation of its debts. The discussion to which I listened was long and bitter, and finally, in 1883, the debt settlement act was passed, by which the debt of the state was scaled down from forty-two millions to twenty-one millions. The bonds were refunded at an interest of three per cent. per annum and up to this time, of that old debt there still remains unpaid some eighteen millions of dollars, a burden with which the people of that commonwealth are still struggling. Now, sir, I have selected the evil effects of this principle of loaning the credit of the state in aid of private enterprises—I have selected the state of Tennessee, because of my personal acquaintance with the question as it appeared there, but other states have had similar experiences. Missouri is a notable instance. Kentucky, while it prohibited the state from loaning its credit in aid of individual enterprises, still permitted the subdivisions of the state to loan their credit—the counties and the cities. One county in that state—Muehlenberg county—voted bonds to a railroad and that county became bankrupt, absolutely, and I am informed that for twenty years the county has had no regular steady county government. Counties and cities of the great state of Illinois were also permitted for some-

time previous to the late revision of its constitution to loan their credit in aid of individual enterprises, and the result has been followed with disaster, showing, sir, that this doctrine is vicious in its results, as it is vicious in its principle. These examples, as I take it, are a warning to the State of Utah, just about to start upon its career—a career that I believe will be magnificent and of which we shall be proud, especially if at this particular time, when forming the fundamental law of the land, we shall take care to lay its foundation upon such principles that shall secure to the people equality before the law and make it impossible to exercise the powers of the government in aid of private enterprises and to the building up of private fortunes.

I wish to state further, that the propositions that have been offered here by the minority of the committee on legislative, which are in the line of prohibiting the State from taxing its citizens in the interests of private industries and which have been voted down—to discard these doctrines is to lay the foundation for future mischief in the State and inequality, and I wish to say that these doctrines offered by the minority and voted down by you and now brought before you under a modified form are in line with the great constitutional doctrine as announced by the courts of this country. In proof of which I will read to you still further from the decision of Chief Justice Miller, in the case before cited. The circumstances of this case are these: The city of Topeka, under the general law of the state of Kansas incorporating cities, issued bonds of the denomination of one thousand dollars, one hundred in number, in aid of a bridge manufacturing company—in aid of establishing a home industry, which it was thought would greatly benefit the city of Topeka and bring to that city more prosperity by reason of the establishment of this industry, within their borders. Some of these bonds

found their way into the hands of the loan association of Cleveland, Ohio, and suit was brought before the courts in trying to collect the interest due on those bonds. The learned judge, in the discussion of the principles involved, gave a wider range to his decision than the mere case before him, and in the course of that opinion, he says:

To lay with one hand the power of the government on the property of the citizen and with the other to bestow it upon favored individuals, to aid private enterprises and to build up private fortunes, is none the less robbery because it is under the forms of law, and is called taxation. This is not legislation. It is a decree under legislative forms. Nor is it taxation. A tax, says Webster's dictionary, is a rate or sum of money assessed on the person or property of the citizen by a government for the use of the nation or state. Taxes are burdens or charges imposed by the legislature upon persons or property to raise money for public purposes. We have established, we think beyond cavil, that there can be no lawful tax which is not laid for public purpose. It may not be easy to draw the line in all cases, so as to decide what is a public purpose in this sense, and what is not, but it is undoubtedly the duty of the legislature which imposes or authorizes municipalities to impose a tax to see that it is not to be used for purposes of private interest instead of public use, and the courts can only be justified in interposing when a violation of this principle is clear and the reason for interference is cogent. If it be said that a benefit results to the local public of a town by establishing manufactories, the same may be said of any other business or pursuit which employs capital or labor; the merchant, the mechanic, the innkeeper, the banker, the builder, the steamboat owner, are equally promoters of the public good and equally deserving the aid of the citizens by forced contributions. No line can be drawn in favor of the manufacturer, which would not open the coffers of the public treasury to the importunities of two-thirds of the business men of the town.

That, sir, is the doctrine laid down by the courts on this subject. Nor is that the only case in point. There are several others. The notes, however, giving reference, I have mislaid, but that is the doctrine in regard to this ques-

tion. There can be no just taxation, but for a public purpose. Yet, by your votes this morning, you have rejected, gentlemen, this restriction to the Legislature and now, sir, the proposed article that I submit to you is that if you are determined that governments shall vote public money in aid of private enterprises, I ask you at least that you get the consent of two-thirds of the people whenever such a proposition or such a use of public moneys is to be made. The true doctrine to be observed in this matter is that which is laid down in the principles here announced. Let us form a government which shall prevent men from interfering with each other and leave them otherwise free to pursue what course they may choose in their industries. It is not the business of government to aid in the establishment of private interests or to build up private fortunes. I take it that the only safe course to pursue in this instance is to leave every individual in the new State free and equal before the law, and you cannot do that if it is your purpose and intent to use the great taxing power of the new State in the interest of any class or association of individuals. There is no equality in that. I think, sir, that I may illustrate my own views on this subject by reference to the course that the founders of this great government of the United States pursued in regard to religion. There were men in those days who would have been delighted as they termed it to have put God into the Constitution of the country and make an establishment of religion, but there had been such an exodus of men of the various faiths from the old world to this land that it was impossible for the founders of the new commonwealth to single out any one of them and make that the state religion, because the moment that one was selected to be supported by the state there was a discrimination made against all the rest, and when confronted with these facts

our fathers of this country acted wisely and well when they refused to enter into governmental partnerships with any one of the many sects which had sprung up in existence and declared that the government should make no provision for the establishment of religion or prohibit the free exercise thereof.

So I say, now that we stand upon the threshold of the new State of Utah, make all the people in regard to their industrial pursuits equal before the law by proclaiming that the powers of the State shall not be exercised in favor of one class or division of the citizens. Declare divorce between the State and the industrial pursuits of the people. Say to all the people: "The government shall protect you in your rights, in your liberties, in the pursuit of happiness, and it will leave you free in every other particular to carve out your own fortunes."

I grant you that in the past our Legislatures have been free from bribery, and remarkably so, from corruption. Perhaps it is due to the fact that whatever the Legislature should do might be reversed by the Congress, because in our territorial capacity, the enactments of our Legislatures were subject to revision by the Congress of the United States, but now, sir, there will be increased powers given to the State, and if the Legislature is left free to grant the credit of the State or to give its public moneys in aid of private enterprises, do you suppose that the corridors and ante-rooms where the Legislature meets will not be filled by men begging public aid to build up their private enterprises and to launch out their various schemes? I believe, sir, that that will be the condition that will confront the Legislature, and that we ought to guard against this temptation to corruption. I have confidence in the men of Utah. I admire the men of Utah in the past. I have confidence in the great majority of them in the future, but we all know that in almost

every legislative assembly in the land there are men who find their way that are corruptible and it may be that the corruption of just a few will be sufficient to draw to the aid of individual enterprises public funds and the credit of the State. We to-day are living in the midst of conditions which did not confront the early legislatures of this country. There have risen in the past few years corporate powers, trusts and combines, which are a menace to free government. They secure such legislation as they need to aid them in their several enterprises, and they are sufficiently strong to contend with the government itself, not only the state governments, but even the great government of the United States; in proof of which you need go back no further in the history of legislation in this country than the past two years, where gigantic monopolies have written into the enactments of Congress the very clauses that they required to benefit them in their particular line of business, and while they have been able to hold the people afar off and to defy their influence, with the other hand they have been able to clutch government by the throat and compel it to yield to their demands. We are living in a country rich in its resources. Combinations that are foreign to us—that is, I mean companies organized outside of the new State will send their agents here with means to corrupt all who can be corrupted, and they will seek to lay their hands upon every resource of our commonwealth, and the great danger is that while for a few brief years there may be a stimulation in our industries, in the end it will prove that the wealth has fallen to the hands of the few while the masses are bereft of opportunities to make themselves comfortable in the midst of rich resources until, sir, the few shall be enriched and the masses shall be the hewers of wood and drawers of water. I am not content with this mushroom growth of prosperity.

I would prefer to follow means where the growth and the development would be slower, but when it does come, that the wealth might be in the hands of the masses and have, if not millionaires in our midst, at least a people who shall have attained an independence so that they can be masters of their own time, so that they may feel the blessings which come from an enjoyment of the blessings of this earth. I offer this amendment, sir, in the interest of the people of Utah, that the government shall not favor classes, and if you are determined to exercise the powers of government for the enrichment of any class I at least ask you that those powers shall not be exercised unless two-thirds of the people shall favor it.

Mr. GOODWIN. Mr. Chairman, I submit that it is a little unfair for a gentleman to load up a cannon when we thought that all he had about him was a revolver and fire a shell into this committee which is calculated if it does not knock anyone down, to at least stun them. The understanding was when we began here that we should have nothing partisan. At least that was the understanding on the other side. They told us that all the summer through and all the winter. I object to this amendment for this reason, that it is contrary to the principles of the government of the United States. It took the world six thousand years to get up to the point where they could form a perfect republic in which the majority was to rule. The gentleman from Davis County goes the world one better and insists upon a two-thirds majority. The fathers did not think of that when they organized this government. He very shrewdly said that the gentlemen of the opposition were content to leave this sort of legislation out, because it amounted to an affirmative for them, and I suppose he thought that in the happy way in which he spoke it, he would conceal the fact that if he could get through this amend-

ment, he would accomplish all that had been voted down this morning, because there are no two-thirds majorities in this country. I believe in the bill of rights and that no voter shall vote upon any proposition to tax the property of his neighbor unless he is a taxpayer himself, and the qualified voters referred to by the argument we have just heard are the property owners, and if this amendment were to pass it would require two-thirds of them to carry any measure. It amounts to inhibition. It is just as good as a clause in the Constitution declaring that the State should never through its Legislature give up anything in the way of bounties or subsidies and should never permit any city or county in the State to do the same thing. That is, it takes from the people the liberty to do with their own what they may want. I do not wish to meet any further his argument, except in a few general words. He has referred to the state of Tennessee, that got into debt by voting subsidies to railroads. Probably it did, but there was very much more the matter with Tennessee. At the time the property in Tennessee through another cause was falling two per cent per annum. At the time too there was an idea running in the minds of the people of Tennessee that the most important thing in the world was not to create and increase their industries, but it was to vote solidly the democratic ticket. That was what was the matter between 1880 and 1886; in a great many places in that state at that time, gentlemen could not express their real sentiments without being insulted, if not mobbed—on political questions I mean. The gentleman has cited other places that have been unfortunate through the carrying out of this principle. Some of them have some pertinency, but not very much, and it would be easy enough to cite on the other side innumerable cases where, by the very carrying out of this principle, such pros-

perity has come as the people never dreamed of before. For instance, he spoke of the city of Topeka, that voted a hundred thousand dollars for a certain purpose. Very well, I stand that off by the city of Joliet, in Illinois, that wanted to give seventy-five thousand dollars in bonds to have steel works established. They went to the legislature. It was passed. The governor vetoed the bill. The legislature carried it over his head. The bonds were voted and the city advanced from four thousand to twenty-five thousand people in four years. It made a city of it. It is a great place yet and is steadily growing. Again, the state of Illinois had voted a large tract of land to the Illinois Central railroad. There was a fight that lasted for weeks on the proposition. At that time, in the spring of the year, through Illinois it was the habit that a man who rode in a stage had to carry a rail, because the stage went down every little while. There was no way to carry products to market. The result is that that land which was worth very little at the time when it was given to the railroad, produces something which gives every man throughout the whole length of Illinois a near market for what he produces. Further, that road pays the expenses of the state. Take the city of Washington for instance. You remember when Boss Shepherd was banished and execrated by the democratic press of the United States as a monster, because he insisted on transforming Washington from a swamp to a fit place to reside in. He went back a few years later and they received him with an ovation. Why? Because, through his work and his foresight, Washington had been transformed from a mud hole to the most beautiful city in America, and the landed values of that city had advanced five hundred per cent. I do not wish to discuss the tariff principles. The newspapers can do that, or it can be done on the stump, but I do wish to

say that this Convention has no business to put its hand on the free thought of this people. The gentleman tells us about the fathers declaring for life, liberty, and the pursuit of happiness. I believe particularly in that part of it called liberty. I believe the men of this Territory, when they come to be a State, will increase in wisdom, increase in judgment, and that they should not have a shackle on their wrists to prevent the majority from doing any legitimate thing that it pleases them to. Of course this argument can be continued here six days. We had one last week or week before last that lasted six days. Some gentlemen made great reputations on it; but when they got through the matter stood exactly where it did when they started and the vote was just the same. It will be so with this. There is no end to it. They tell the people that there is no power to tax the people to benefit a certain individual or a certain class. I grant that, but when the people find that by benefiting a certain class they can benefit themselves, they ought to have the right to do it. That is behind all questions of taxation, is the right of the American people to do what they please to do so that they are within the laws and so that there is no injustice to any man, or any class of men. We need not go to Tennessee. We need not go to Illinois.

You know, Mr. Chairman, that if this city had had the right and the power three years ago to have mortgaged itself for five hundred thousand dollars to build a road west the result would have been that every property holder's property in this city would have been worth fifty per cent more—yes, one hundred per cent more to-day than it is worth. They cried out that territorial rule inhibited all that, and that was true. And would you have that continued through the State? There is a point where I would agree with the gentleman. I would agree that this

Convention should say that no city, no county, nor the State itself should ever negotiate a loan or vote any subsidy or bounty above a certain small percentage of the actual property value of the State. That is true. This other is simply taking the people by the throat and saying, "you will probably have corrupt legislatures. We know that great corporations will come here and try and corrupt you." And there is where all the trouble comes in, Mr. Chairman. People do not realize the power of money. If I have a hundred dollars and you have a thousand, you would not only have ten times the chances to increase your fortune, but if with that thousand you can get a dumb machine that works without food and without sleep to multiply your forces three or four or five hundred times, it would not be fair to say ten years later that when you began life you had but ten times as much as I, whereas, now you own everything and I have nothing. And other causes are working. This is the metallic age and money is what counts and money has opportunities. It is a rolling snowball and to say that to vote for the substitute starts a snowball of that kind does not prove the fact. These snowballs are rolling all the time and they are drawing to them the wealth of the country. A limitation must be upon the corporations themselves and on the powers that hold these moneys and not on the free thought of the people to do what they want to do.

The committee then took a recess until 2 o'clock p. m.

AFTERNOON SESSION.

The CHAIRMAN. The matter before the committee is the amendment offered by Mr. Roberts.

Mr. MALONEY. Mr. Chairman, I had not expected to make any remarks whatever upon the important question now under discussion and I have never taken the time to prepare a single word,

but as a native son of the old volunteer state of Tennessee, I am not going to sit by and allow my native state to be assaulted and its good name traduced by the gentlemen upon this floor, without resenting it and stating the truth in regard to the matter. What the gentleman from Salt Lake does not know about the state of Tennessee and her people and her financial ability will fill a large library, beside of which the congressional library at Washington would sink into insignificance. He talks about in 1880 and 1886, a white man could not utter his sentiments in the state of Tennessee. Why, Mr. Chairman, does the gentleman from Salt Lake, who made the statement, know that during that time the state of Tennessee had three republicans in Congress and part of the time four and part of the time the governor of the state was a republican? If there is one place on this earth where a man can speak his sentiments, that place is in the state of Tennessee. So the gentleman who gave utterance to such sentiments does not know anything about what he is talking about. The state of Tennessee has had three constitutions. The first was formed and adopted in June, 1796. The second in 1834. Under the constitution of 1834, there was nothing in that constitution by which the Legislature was prevented from lending aid to state institutions or corporations or associations. In 1851 and 1852, when Andrew Johnson was governor, something took hold of the people of Tennessee by which the idea was to issue bonds in aid of railroad companies and turnpike companies and for the purpose of opening the waterways in the state. About forty-seven millions of dollars in bonds were issued by these corporations and upon the back of each one of those bonds was the faith of the state of Tennessee pledged for the payment of those bonds. The state of Tennessee by its secretary, its treasurer, and its governor, guaranteed the payment of every

one of those bonds and the interest. What was the result? Mr. Roberts has told you the truth in regard to that matter; but not the whole truth. The state of Tennessee was compelled to force a settlement with her bondholders at about fifty cents on the dollar. I say it is a shame and a disgrace to the great state of Tennessee, but we were compelled to do that. Thus, the period about which Mr. Roberts speaks. Now, I want to tell you that in 1864, 1866 and on down to 1870, the republicans had control of that state. I think Parson Brownlow was our governor. During that time and prior to the constitution of 1870, from which Mr. Roberts has read, there was nothing to abridge the governor and the state legislature from issuing bonds, or rather endorsing and guaranteeing the payment of bonds for railroad companies and turnpike companies. During that time I want to say to you, Mr. Chairman, and the members of this committee, that they guaranteed the payment of bonds issued in behalf of railroad companies, which began nowhere on earth and ended at the same place. Now, then, that indebtedness was piled up million upon million until it aggregated in round numbers forty-seven millions of dollars, and we were compelled to scale the indebtedness in 1883 at the rate of fifty cents on the dollar. So, then, Mr. Chairman—

Mr. BUTTON. I arise to a point of order. I would like to know if this has anything to do with the question before the house?

The CHAIRMAN. I think the gentleman is in order.

Mr. BUTTON. I do not think it has anything to do with it.

Mr. MALONEY. I think it has. My friend from Salt Lake brought the question up and he gave utterance to a sentiment which was not true, that a white man could not give utterance to his sentiments in Tennessee. I deny it. If there ever was a stalwart party that

gave utterance to its sentiments, it is the republicans of Tennessee.

The CHAIRMAN. Especially east Tennessee.

Mr. MALONEY. Especially east Tennessee. It furnished 33,000 soldiers for the army. Speaking of Tennessee, I do not approve of everything the democratic party in Tennessee has done. Far from it. The democratic party in Tennessee to-day is doing that which from my standpoint is wrong. The republican governor was elected and the democrats insisted on counting him out. I believe in honesty in politics. I do not say that I object to a provision preventing the Legislature from giving bounties. This Convention is republican. They were elected upon that, but I want to caution the gentlemen of this committee that there was nothing in the republican platform by which they are pledged to see that nothing shall go into this Constitution preventing the Legislature from endorsing or guaranteeing the payments of bonds issued by individuals, corporations, or associations. Suppose the great Utah corporation should ask the State of Utah to guarantee the payment of its bonds, so that they could float them. I tell you now, I want to give you notice in time, not only that corporation or any other corporation, may in time get State aid to float their bonds and in the end the people of this State may have these bonds to pay. I do not speak of the Utah corporation more than I do any other corporation—any railroad corporation. Why, in Tennessee, when the question came up before the legislature in 1851 and 1852, the finest hotels in Nashville were filled with lobbyists. They set up there private bars. The members of the legislature were treated. They got all the state aid they desired, and to day the state of Tennessee is almost bankrupt, by reason of having to pay those obligations. I appeal to republican members in this house whether it is not the right thing to do

to prevent any future Legislature of this State from succumbing to the lobbyists and voting State aid and guaranteeing the payment of any such bonds.

Mr. CANNON. Mr. Chairman, I believe that I voice the sentiment of republican members of this Convention when I say that so far as they were concerned, they did not desire to consume time in debating the question that is presented to them. It is not, Mr. Chairman, either, with a desire to avoid a debate upon this question that they desired to pass upon the matter without debate, but it is because of the fact that we have a great many matters of importance before us upon which there is an honest difference of opinion and which possibly may be changed by the debate. There cannot be any very great change upon the subject that we have before us to-day. Our democratic friends declared time and again that they believed in making the organic law of the State free from partisanship. That they desired to make it one that the people of Utah could endorse and not interject into it that which is of a partisan nature. I am sorry that they have departed from this declaration, for while I did not believe it at the time that it was made, so far as I am concerned, I would myself oppose inserting in the Constitution anything that I believed to be of a partisan character. The amendment which has been offered on this section which is proposed by the gentleman from Davis County is only in another form the same principle that has been advocated by the democrats in different places and at different times. In the Confederate constitution they provided that no bounty should be given, and provided that tariff should be for revenue only and not for the purpose of protection. In various states they have made similar provisions. In the proposition that was voted down this morning, you have it only in a little stronger dose than is presented by the gentleman

from Davis County. He presents it to us as it were in the homœopathic form and expects us to swallow it just the same in that way. The people of Utah, I believe, settled this question so far as that is concerned, in returning to this Convention a majority of members who are republicans. They believed that it is right to leave it to the Legislature and our friends—many of our democratic friends have said from time to time that they did not believe in legislating, but in leaving the Legislature as free as possible. I trust that the result of the vote which shall be taken upon this section will show that they are earnest in that which they have said. The gentleman this morning, speaking upon the subject, declared that government must be limited to protection of life and to the protection of the rights to pursue happiness and to exercise liberty.

I claim, Mr, Chairman, and gentlemen of the committee, that there is no great government to-day upon the face of the earth, but that aids its citizens in various forms, in the establishment of the different industries that may be established in those various countries. I claim that the people of Utah will be benefitted by an application of the principles believed in by the republican party, but so far as I am concerned, I am willing to leave the whole matter to the people of Utah and to their representatives in the Legislature. We do not seek to place here in the Constitution a proposition that it shall be compulsory with the Legislature to foster and promote different industries, and on the other hand, I believe that it is a firm doctrine of the republican members to see to it that nothing is placed in this Constitution which shall prohibit the fostering care and the aid of the State of Utah being given to such industries as the people may desire to have established from time to time. I claim that from the beginning—from the time Utah was settled her peo-

ple have believed emphatically in establishing home industries and in building them up—in extending to them such aid as may be necessary, and that they have done it by enactment as well as by private practice, as was noted by the gentleman from San Juan the other day. I do not desire—because I know it to be the express feeling of republicans—to take up the time of this Convention with a lengthy address upon this subject, but I desire to call your attention for two or three minutes to the case which is most prominent before the people of Utah on this branch of the question. That is, to the sugar question in Utah Territory.

By the Legislature which provided for the payment of a bounty upon sugar before the division upon national party lines, men who afterwards went out as democrats and men who afterwards went out as republicans, voted to provide a certain amount of bounty for the establishment of this industry. The result was a factory was built in Utah Territory, and I claim that it was a fact that cannot be disputed honestly by any man, that, but for the bounty, that factory would never have been built, and that the men who engaged in that enterprise, both democrats and republicans, refused to have anything to do with it until they were assured of the bounty that had been proposed. I claim that that is the fact and I claim in addition to that, that the people of Utah have in dollars and cents received more money back than was expended from the public treasury. I claim that it can be shown by actual figures that the benefit the people derived was greater directly than the amount that was taken from them, and that, in addition to that, they have the benefit which came from the circumstance of a large amount of money being expended and the large amount of means being retained in Utah Territory. If we take the year in which the factory was built and every year following that, you will find that

every time that Utah sugar was placed upon the market, there is a drop in the price of sugar; you will find that every time Utah sugar retires from the market, there is an advance in the price of sugar, and that the amount that is thus affected has ranged from a quarter of a cent to one and three-quarters cents a pound. What is the benefit that came from the establishment of this factory? You are all familiar with it. It would not pay to take up your time here explaining to you members of the different localities in the Territory the benefit that came to the people of Utah from the establishment of this factory. It is simply an illustration of that which can be done, and when we refer to it we follow in granting bounties and in doing that which has been done the course of the most enlightened nations upon the face of the earth. When first the bounty was proposed, the beet sugar industry in the United States amounted to practically nothing. It grew at a most marvelous rate. We find that in 1880 beet sugar produced in the United States amounted to only 357 tons. In 1890 it was only increased to 2,800 tons. At that time the McKinley bill went into effect, providing for a bounty, and in one year the amount was increased from twenty-eight hundred tons to fifty-four hundred tons. The succeeding year, under the stimulating effect of that bounty the product increased to twelve thousand three hundred and fifty-five tons, with a corresponding increase in the year 1893 and the year 1894. Factories had been established and they produced the desired results.

We find that other countries are not without this aid. You go back to Germany and you will find that while Germany to-day controls the beet sugar market, we find that Germany paid on an average of twenty million dollars per year in bounties to her citizens on beet sugar. We will find that from the year 1876 to 1890, she

paid the enormous sum of \$220,652,647. This is the manner in which Germany built up her industries, and I claim it is a fundamental principle that no civilized government exists upon the face of the earth to-day that does not assist its people in establishing its industries and promoting thereby their welfare.

I trust that this substitute or section will not prevail for another reason, a reason referred to by Judge Goodwin this morning. Instead of leaving it to a majority of the people, it provides that you must have after the Legislature has enacted a law a two-thirds vote of the people before the bill can go into effect. How would that be in connection with other measures? Why not apply that to other principles of legislation? Why should we single out one which tends to build up the industries of the country and center an attack upon that, and leave all others so that when passed by the Legislature they become a law? I claim that it is wrong in principle. I claim that when the people elect their representatives and they are elected upon party platforms which pledge them to build up home industry in the form of bounties or to oppose that principle, that the people know what they are doing and that their representatives in the Legislature should have power, free from any restraint of the Constitution, to pass such laws as they see fit.

Mr. MURDOCK (Beaver). Mr. Chairman, I am opposed to the amendment upon the ground that we are, as I regard it, taking the agency away from the intelligent men that are chosen by the people at large throughout the State to come here and transact business, and prevents them from entering into anything that would be in the way of advancement. It is all right—it is a principle that I thoroughly endorse to throw certain protections, certain guards around the interests of the people. And that is what I am here for. And I am not here to carry out

any particular system of the party. That is, that is not a general interest, that does not equally apply to every individual. I am not here to look after simply the republican part of the business, but I am here to look after the general interests. Now, what kind of a fix would you place the Legislature in to trammel them and to throw a prohibition around them that they cannot enter into anything that would promise the well being of the people? I think it would be certainly a very grand mistake that we should make here upon this floor.

I take it, Mr. Chairman, that we will be able to send a legislative body here that are men of experience, men of intelligence, men who are looking after their own interests, and when they are looking after their own interests they are looking after the interest of the general whole. Of course, we cannot be responsible for men that use their power in recklessness and carelessness and in a way that would bring harm to the people. We cannot help that. We have many instances of men that have made bad use of their power, that has been placed in their hands. We also find men that make bad use of their money—of their means that is placed in their hands, but I take it, Mr. Chairman and gentlemen of the committee, that we shall send a body of men here that will know when to protect the rights of the people and how to do that, that will promote their welfare. We know of instances—we can quote many instances where the governments, or the legislatures, and even Congress have had the power to do some things that have greatly enhanced the interests of the people of the nation—also of legislatures of states. While there are others perhaps that have made a grand mistake. No doubt of that. But we find individuals, that have entered into business, that have also made mistakes from time to time, and of course, we want to throw safeguards around the people;

but I do not feel that it would be competent for us to, as it were, tie the hands and the feet of the Legislature, and send them here to do business for us. I think it would be entirely out of character of such a body of men as are here. We should leave it to the Legislature to conduct this matter and not throw any embargo upon them. Hence, I am entirely opposed to the amendment that is introduced by my friend from Davis County. We might quote many things. Of course we see it in print—the rulings of judges, but that does not signify that we are compelled to follow these channels that have been laid down and have been participated in by individuals or by companies. Failures frequently prove a benefit to individuals—failures, because one legislature makes a failure, we will understand how to steer around that, as you may when you see your neighbor make a mistake in his business transaction. When you come to that place where he began to make a mistake, why you are enabled to benefit yourself. I have always made the experience of other men be of some use to me when I could adopt the principle, and it is so in these matters and I think it would be perfectly out of character for us to trammel or hedge up the way for a Legislature to perform that that they thought would be best for the common weal.

Mr. JAMES. Mr. Chairman, I consider it a waste of time for me to arise here, or any other gentleman, and discuss this question. This question was discussed from St. George to Logan on the stump last fall. It is the issue that the campaign was upon, and it is the issue that buried the democratic party from California to Maine. Consequently, I believe it should be kept out of this Convention, and I was in hope that the honorable gentleman from Provo would do so and that the broad and generous provision in the platform would be adhered to and nothing of a partisan nature would be brought up in this

Convention, and I regret to say that this is the first action that has been taken that was distinctly of a partisan nature since we have come together in this Convention.

Mr. THURMAN. Let me ask the gentleman a question. Why do you say this is of a partisan nature?

Mr. JAMES. Why, simply because it was made an issue last fall; it was on the stump; it was discussed and it is the issue to-day in the United States between the two great parties.

Mr. THURMAN. It was in the platform too, was it not?

Mr. JAMES. What platform?

Mr. THURMAN. Your platform.

Mr. JAMES. I believe it was in every platform in the United States.

Mr. THURMAN. That was just put in to catch votes, was it?

Mr. JAMES. No, sir.

Mr. THURMAN. Oh, there was a meaning to that?

Mr. JAMES. Because the republican party stood upon that issue. That is why it was put in. Now, I want to say to my distinguished friend from Davis County, that his position is not tenable, nor does he stand upon the position that he took upon this floor here to-day. He will not maintain that he is not in favor of taxing the public in the interests of the individual, because he has voted to do it ever since he became an American citizen, and he will continue to do it so long as he remains one if he votes at all. I ask him is he opposed to taxing the public for the purpose of educating the poor? Is not that for individual interests that the public is taxed, and is not it for the good of the public that it is done? That is the proposition.

Mr. CREER. Is that the strongest argument the republicans have?

Mr. JAMES. That may not please you, you can sneer as much as you have a mind to, but you cannot—

The CHAIRMAN. Mr. James, I must insist on the rules of order that require

gentlemen to keep still when the gentleman is addressing the house, and refrain from talking.

Mr. JAMES. I ask the gentleman again, is he opposed to educating the individual in the arts, as France has done, which is the secret of her greatness as a nation to-day? Did not France establish schools? Did not she educate her people to manufacture the finest article to be found in any of the markets of the world, and is not that the secret of her success everywhere all over this broad world, of commanding a price above the brands of all other nations as a rule? Now, I want to call the gentleman's attention, who made the speech upon the proposition that there was corruption, and that this policy of the republican party of advancement and of enlightenment in this nation was responsible for it. Now, I disclaim that that is true. I ask the gentleman why were there not laws enacted that prevented the shameful and disgraceful corruption of the Tammany ring, in New York, exposed by the Lexow commission last winter? Was the republican party responsible for the class of legislation that caused the disgraceful doings in the state of New York last winter? Why not get up here and on the stump and preach to everybody that it was democratic principles? Now, I do not claim anything of that kind. It was the corruption of mankind. That was the secret of that wrongdoing down there, just the same as it was the corruption of mankind that did the wrongdoing in my friend's state of Tennessee, it was not republican principles or republican policy that was the secret or the cause of that wrongdoing. I ask the gentleman again, has not France enacted laws to prevent corruption? Where has there been any other so gigantic a swindle in the history of the world as that of the Panama canal? Was it owing to republican laws or republican principles that the great DeLesseps, the

greatest engineer of the age, fell and disgraced himself? No, sir, it was the weakness of mankind; and I say to you gentlemen assembled in this Convention here, there is no grander thing that you can do, nothing that will go more to your credit or the credit of this Territory, than for you to use your public funds where they will build up the industry, the prosperity, and the resources of this Territory. I am just as much opposed to bounties, unless it is for public good, as any man upon this floor, and I will be just as shy, if ever I have a chance to vote against them, I think as any other.

I say to you, as an example, you have it right before your eyes; many of you do not appreciate it, but it is a fact, you have the opportunity of making the greatest State out of this State that there is to-day between the Missouri river and California. Your resources, or our resources, are greater than any other state in the Union and more diversified, but you cannot do it by pursuing a policy of obstructionists, you must pursue a policy of advancement, you must establish a school in this Territory that will be the grandest and greatest of schools there is anywhere between Maine and California; you must go to work and educate your young men; you must lay a foundation for a school that will cost a million dollars or more, you must make of your young men, competent men to go up into these mountains and take charge of the wealth that Providence has placed in those hills for you, and unless you do it, it will remain there until after you are dead and gone and a more enterprising class will come along and establish a school that will turn out practical young men, men that have knowledge of mining engineering, mechanical engineering, assaying, and superintending and managing of mines; such mines as the great Ontario will soon be exhausted; then the resources of the Territory will be the small mines that will last for generations to

come, and they have got to be managed by men that have all of the faculties of managing every branch of the mine. You cannot have a staff of officers. You cannot have an assayer, a mechanical engineer, a blacksmith and a carpenter. All those forces cannot be there. It has got to be confined in one man, and if you will establish a school here, you will lay the foundation of that school in this Convention and put it under way that will turn out a class of that kind of men; and you will then be accomplishing a great deal more good than you will if you are here simply to make capital for political parties next fall. But I say to you, gentlemen, if you want to go to your second Waterloo next fall on this issue, I welcome you, and I invite you to be found there.

Mr. EICHNOR. Mr. Chairman, I move that we now rise and report progress, and for this reason: that there is not a republican on the floor of this house that is afraid of this question, and we will meet them on the stump next fall, but it is not the time here to spend the money of the United States discussing the issues of the two great parties. [Applause.]

Mr. CANNON. I would like to ask what is the advantage of rising? Why not vote upon the question?

Mr. EICHNOR. When we get back in the Convention we can take up some other article.

The CHAIRMAN. You can take it up in committee of the whole.

Mr. EICHNOR. I say right here, I am not afraid of this question. I say to the democrats next fall, "Lay on, MacDuff, and damned be he that first cries hold, enough."

The motion was rejected.

Mr. HEYBOURNE. Mr. Chairman, I have just received a very polite note from a very dear friend, a member of this Convention, not to consume too much time. If he knew me as well as I do myself, he would not have made that

request, for I do not think I ever made a speech that was as long as five minutes, but I have a few words to say on this matter. I am opposed to the gentleman's motion that is now pending before this body. While I have great respect and regard for my distinguished friends on the other side, I have to part roads with them at this junction. I do not intend to go down to Tennessee or east here for statistics, but I am laboring for the interest of Utah Territory—presumably for the new State of Utah. And I am, Mr. Chairman and gentlemen, in favor of leaving the Legislature of the State of Utah untrammelled. I am sorry that this matter has been introduced here, because it smacks considerably of partisan feeling. As has been remarked, these issues were made fairly and squarely upon the stump during the last campaign and the voice of the people of this Territory as it occurs to my mind has been such—

Mr. ROBERTS. I would like to ask the gentleman a question. Was it at all a party issue in the last campaign, as to whether the credit of this State should be loaned in aid of private enterprises?

Mr. HEYBOURNE. I think not.

Mr. ROBERTS. That is the question that is involved in my article, and not the question of bounties.

Mr. HEYBOURNE. I understood that your article provided that the Legislature should be prohibited from extending any aid or assistance to institutions either public or private, without two-thirds majority of the people.

Mr. ROBERTS. No, sir—will not lend its credit.

(The section offered by Mr. Roberts was read.)

Mr. HEYBOURNE. I do not think that I am mistaken in the object or the wording of the proposition, as I understand it.

Mr. ROBERTS. It does involve the loaning of the credit of the State.

Mr. HEYBOURNE. Yes, that is 'one.'

Mr. ROBERTS. That was not a party issue.

Mr. HEYBOURNE. That was not a party issue as I understand it. I am in favor of encouraging the industries of our country. I have the honor of representing upon the floor of this Convention one of the greatest counties in matter of resources that I guess there is in the Territory of Utah. I wish to state, sir, that we have mountains of iron, and we have, I may say, thousands of acres of coal, both of which are required to make a great country, and this wealth is lying, you might say, dormant, for the want of some assistance, some encouragement, something that will develop and bring out these hidden resources of our lands, and I am in favor of giving the Legislature of our Territory a free scope in these matters that whenever it is thought wise and necessary and will be productive of good to the general community, that they might have it in their power to assist either by way of bounty or exemption from taxation or in whatever way they may think proper and just. In so doing I am of the opinion that it will be wealth or means wisely expended. Allusion has been made to an industry that has been established a little south of us here, that has produced very good and beneficial results. It has not only been a blessing to the people generally, but it has afforded labor for those who are immediately associated, who reside in the vicinity. It has enabled men to procure employment. It has been a benefit to the Territory generally, and it has assisted in furnishing the revenue that was necessary for the governmental force of our Territory. And in looking upon this matter from this standpoint, gentlemen, I am of the opinion that other industries that might be established in our midst—that there is room for plenty of them—that it would bring about the same happy results and would make of the State of

Utah what she is destined to become, one of the brightest stars in the constellation. I am opposed to the gentleman's motion from the fact that I hold that it will embarrass our lawmakers in the future, and where they might see proper to extend some assistance in this regard that they will be prohibited from so doing, therefore, I shall oppose the amendment.

Mr. THURMAN. Mr. Chairman, I do not intend to take up the time of the committee by attempting to make a speech, but I think it is due to the party to which I belong to correct what I believe to be a misapprehension, if I may judge from the remarks of some of the speakers. There seems to be a complaint that a partisan question has been brought into the proceedings of this Convention by the democrats on this floor. I take it that the gentlemen who stand upon that position are either very unfair (and I do not wish to accuse them of that, because from what I know of the gentlemen personally they are always fair) or else they are not aware of the fact that the republicans here stand by their principles upon this question in a way that by saying nothing or doing nothing upon this question they are thereby maintaining a position of extreme partisanship. Because, it is a fundamental principle of constitutional government of the states which has been declared here time and time again in one form or another, that unless the Constitution prohibits, the Legislature has power to act, so that the theory of the republican party as to state government is fully maintained and exemplified when they say, "We will do nothing; we will say nothing; we will place no limitations whatever upon the Legislature." In fact, it is suggested by my very esteemed friend on the right from Beaver and others, "Leave all these questions to the Legislature."

What are we here for, Mr. Chairman? What is the purpose of this Convention?

Its only purpose is to place limitations upon the power of the State government, because if we leave everything to the Legislature we might just as well have stayed at home. And my friend over on the right (Mr. Eichnor) would not have to get up on this floor and appeal to this Convention to protect the treasury of the United States against the raid that we are making upon it daily. We could all go home—go about our business. But the very purpose for which this Convention has assembled is to form the outlines of a State government and place in the Constitution a limitation upon the powers of the Legislature and other departments of the government. Now, the democrats went into the campaign and they fought against the Legislature having certain powers. The republicans went into the field and in their campaign have contended that the Legislature should have these powers. Now, because republicans who are in the majority here have not seen fit to place in the Constitution anything upon that subject, where does it leave them? It leaves them in an extremely partisan position in this Convention. By saying nothing, by doing nothing, they accomplish their partisan purposes. In order for the democrats to show their constituents who sent them here that they have not forgotten the reasons why they were elected last fall—in order for me to show the people of Utah County who sent twelve democrats to this Convention (and that is the place where the sugar factory is built) that we have not forgotten the rock from whence we were hewn and the character of the voice that sent us to represent them in this Convention, we have got to ask you to consider for a few brief moments a proposition such as that submitted here by the gentleman from Davis County.

I do not believe in acrimony. I do not believe in bitterness and abuse. Was he abusive? Was there anything

bitter, rancorous or partisan in his remarks beyond the mere statement of the proposition and the doctrine that he believed in? I think not. Now, gentlemen, we are in this position. Men throw out their challenges, they throw out their banter about "We will meet you next fall, we will meet you to-morrow, we will meet you anywhere else, but we are so anxious to protect the government of the United States against the ravages of this body, who day by day are taking money out of the treasury, that we want to shut off debate and discussion." Now, we have got nothing to say about what we are going to do next fall. We have no insinuations to throw out, but we say this, Mr. Chairman, we do not want some future Legislature—we do not want the republican party in the future to be able to say that this entire Constitutional Convention, democrats and republicans, were all in favor of bounties, for the reason that they framed a Constitution, they sat for days and weeks and months, and there was not a man in it who dared to ask that an inhibition be placed in the Constitution against it. The democrats believe to-day, as they did last fall, that the principle of bounties is wrong and that it is a danger to the commonwealth.

We want to put ourselves on record as to that, without any lengthy speeches or remarks, without saying anything which will tend to irritate or stir up the feelings of our republican friends, but we simply want to put ourselves on record as believing as we did last fall that the public money ought not to be expended in the interest of private enterprise. I am in favor of the motion of my friend. That is to say, it is not what I desire. In fact, I know it is not what he desires. He believes that it is wrong, even with the voice of two-thirds of the people, to expend the public money for private enterprise. That is the doctrine that I believe in, but I would rather have half

a loaf than no loaf at all, and consequently, I would rather vote for his motion than to have nothing in the Constitution.

Mr. EICHNOR. I would like to ask Mr. Thurman a question. Is the object of this debate for the democratic party to place itself on record here, or to convert the republicans to your ideas?

Mr. THURMAN. Well, I am not presumptuous enough, Brother Eichnor, to believe that you are capable of being converted to anything that is right in a political sense.

Mr. C. P. LARSON. Would you consider the sugar factory in Lehi as a private enterprise?

Mr. THURMAN. Yes, sir, I do; most emphatically.

Mr. C. P. LARSON. Did you not, in the Legislature, vote for a bounty to establish that?

Mr. THURMAN. I did, sir. I did, sir. I will tell you why I did it. The same reason that the republican party voted to demonetize silver in 1873. I did not know what I was doing at the time.

Mr. C. P. LARSON. Mr. Thurman, the republicans are sorry for that. Don't you think in the future that sometime you would change?

Mr. THURMAN. They have not shown much sorrow yet. Whenever they show enough sorrow to undo the wrong they have done this country will be better off.

Mr. EICHNOR. I would like to ask Mr. Thurman another question. When silver was demonetized, who moved the previous question in the United States senate?

Mr. THURMAN. I do not know. I shouldn't wonder if it was some republican who moved it in order to cut off debate.

Mr. EICHNOR. Thomas Benton, the great democratic senator.

Mr. RICHARDS. Mr. Chairman, I shall not detain you long, but at the risk of being regarded as an obstruc-

tionist, I want to say a few words on the subject. I regard this as an important matter. I understand that we are here to form the fundamental law for this new State. I would like to refer to some fundamental principles as we go along. Of course, I understand that we have been notified that there is no hope of conversion of our republican friends. Unlike my friend, Brother Thurman, I was presumptuous enough to believe that it was possible for them to see the right if it was made clear enough to them, but I may be mistaken about that. However, there is only one thing for us to do and that is to point out that which is right and if they choose to see it, well and good, if not, the responsibility does not rest with us. Now, this proposition, as has been said, is not such a proposition as I would like to see go into this Constitution, and I think that before it is submitted I shall propose an amendment to it, because I should dislike to see it go in even as it is. If it goes at all, I should want to see it limited to public institutions—that money could not be voted even by a vote of the people unless it was to some institution for some public purpose and public use. Now, a good deal has been said during this discussion about what the government might do. One of my colleagues from Salt Lake talked about establishing educational institutions and all that. I do not understand that this amendment has anything to do with the establishment of educational institutions.

Mr. JAMES. May I ask the gentleman a question? Can you establish educational institutions without funds, and have not you got to tax the people in order to get them?

Mr. RICHARDS. I presume not. But I understand and have faith to believe that this State will have one of the best educational systems in the whole country and it will be supported by taxation, of course, and this amendment would not interfere in any way with

providing for the support of educational systems.

Mr. JAMES. Was not the argument made this morning that taxes could not be used for building up any institution except—some private privileges here or something of that kind—would not that have something to do with educating children?

Mr. RICHARDS. I did not get the gentlemen's question, if it is a question, so I am not able to answer it. I do not understand that this amendment has anything to do with those educational matters. We proposed to establish a system of public education and have free instruction in this Territory, and that to be provided for out of the public funds. Properly it should be. That is all right, but this is intended to prohibit the State or any political subdivision of the State from going into any business or from becoming partners with anybody else in any business, or lending its credit to any private institution for the purpose of carrying on any business. That is what it is intended for, and I say it is right—it is fundamentally right, and anything in conflict with it would not be in harmony with the institutions of our free government, and upon that point I want to read to you a few words from gentlemen of eminence on these questions. I will first read from Mr. Cooley, a man who stands as high as any living man on the question of constitutional law, and see what he says about collecting taxes and using them for such purposes.

Mr. Cooley says:

The right to exercise the power of taxation in aid of manufacturing enterprises or of private persons or corporations has seldom been asserted, and whenever asserted, has been most emphatically denied.

Now, if you pledge the credit of the State or of any political subdivision of the State, that credit has got to be backed by funds and those funds have got to be collected from the people by

taxation, if ever collected at all. He says:

It has been well and forcibly said that individuals and corporations embark in manufactories for the purpose of personal and corporate gain. Their purposes and objects are precisely the same as those of the farmer, the mechanic, or the day laborer. They engage in the selected branch of manufactories for the purpose and with the hope and expectation not of loss, but of profits. The general benefit of the community resulting from every description of well regulated labor is of the same character, whatever may be the branch of industry upon which it may be expended. All useful labors, no matter what the field of labor, serve the state by increasing the aggregate of its profit, its wealth. There is nothing of a public nature.

Now, I cite this to the point that has been suggested by the question that was asked but recently upon this floor, in regard to a private institution:

There is nothing of a public nature any more entitling the manufacturer to public gifts than the sailor, the mechanic, the lumberman, or the farmer.

Mr. GOODWIN. Mr. Chairman, I arise to a point of order. Assuming that to be good law, it applies just as much to a two-thirds majority as it does to a majority. The gentleman cannot urge that a two-thirds majority may be given under that law, while a plain majority would be insufficient.

The CHAIRMAN. I think the gentleman is in order to proceed.

Mr. GOODWIN. If he is going to move for a substitute altogether, that would be in order. Under this it is not.

The CHAIRMAN. The gentleman may proceed.

Mr. RICHARDS. "Our government is based upon equality of rights. All honest employments are honorable. The state cannot rightfully discriminate among occupations, for a discrimination in favor of one branch of industry is a discrimination adverse to all other branches. The state is equally to pro-

tect all, giving no undue advantage or special or exclusive preference to any." That is what I say. That is the doctrine that I am advocating here to-day, and I say that the state has no right, no political subdivision of the state has a right to pledge its credit or to give public money for any private enterprise, no matter what it may be. Again, I quote the language of Mr. Justice Dickinson; in a case reported in the 58th Maine, in which he characterized taxation in aid of private enterprises as being to load the tables of the few with bounty, that the many may partake of the crumbs that fall therefrom. Now, the supreme court of the United States has spoken on this subject. It has referred to the theory of our government, and I desire to read a few words from the supreme court decision in relation to this matter:

It must be conceded that there are rights in every free government beyond the control of the state. A government which recognizes no such rights, but which wholly leaves the liberty and the property of its citizens subject at all times to the absolute disposition and unlimited control of even the most democratic depository of power is after all but a despotism.

It is true. It is a despotism of the many—of the majority, if you choose to call it so, but it is none the less a despotism. I do not want to apply such a term as that to a majority in this Convention. I hope you will not insist upon assuming an attitude that will make such an application proper.

It may well be doubted if a man is to hold all that he is accustomed to call his own, all in which he has placed his happiness, and the security of which is essential to that happiness, under the unlimited dominion of others, whether it is not wiser that this power should be exercised by one man than by many. The theory of our government, state and national, is all opposed to the deposit of unlimited power anywhere. The executive, the legislative, and the judicial branches of these governments are all of limited and defined powers.

And we are here to-day, and it is the

duty that is enjoined upon us, as the representatives of the people, not as the representatives of corporations—I do not stand here representing a wealthy company or any kind of a corporation, I stand here as the representative of the sovereign people of this State—of this Territory, hoping soon to be a State, to place upon this legislative power the limitations and restrictions referred to in this language that I am reading from the supreme court. There are limitations on such powers, which grow out of the essential nature of free government. This is one of the limitations, gentlemen, that grow out of the essential nature of free government. That money that has been taken from the people for governmental purposes, that has been contributed, not voluntarily as a bonus, to any public enterprise, but that has been extorted and coerced by the force and power of the government for governmental purposes—that that money and those funds shall not be taken from the poor man and poured into the coffers of the rich to assist him in any sort of an enterprise, no matter what guise it may be done under. It is not to be done at all, and it is contrary to the theory and the nature of free government, says the supreme court of the United States.

Now, then, a word or two in answer to my distinguished friend who called me to order just now. In his speech this morning, he referred to the unfortunate fact that this city had not the power three or four years ago to issue half a million dollars in bonds to construct a railway from here to some other point, and he says that if that railway had been constructed, if the city had had the power to issue the bonds, it would have done so, and if it had done so, and the road had been constructed, property here would have been worth from fifty to a hundred per cent. more than it is worth now. How does the gentleman know that? I am willing to give him credit for great wisdom and

foresight, but that is a point that I do not think even his great wisdom and foresight enables him to answer with certainty. If that road had been built, in my judgment, we would have been here to-day in the same stagnant condition that we are in, and that the whole country is in, so far as business is concerned, and we would have had half a million dollars more of debt and burden upon our shoulders than we have to-day, and the Lord knows we have enough now.

We have an illustration of this thing right here in this city of what men will do. I do not need to refer to the corruption of men. I do not need to assume and I do not assume that men will be corrupt in the new State. I do not say and I insist that it is not discrediting those men or the characters of those men who are to come after us as legislators to place these restrictions in the Constitution, but I say that men may be misguided, men may be honest, men may be sincere, but they may be mistaken, just as the city council of this city was mistaken a few years ago when they undertook to give twenty-five thousand dollars to an institution here within the limits of this city, that was going to erect a large copper plant, going to employ hundreds and possibly thousands of men. It was going to cause Salt Lake City to rise at once to great prominence and become a great metropolis in the tops of the mountains. Where is the copper plant and where are all these men that were coming here? The city council, I believe acted in good faith. I believe they were sincere and honest in their purpose, but that they were mistaken there is no doubt, and it is for the purpose of preventing just such mistakes as that that these restrictions should be placed in the Constitution. I do not ask to have them placed there that they may prevent corruption, because I believe if men are determined to be corrupt, they will find some way of accomplishing their

purpose, but men who are honest, men who are sincere, men who want to do right, would be guided and controlled by such restrictions, and so I say, gentlemen of the committee, in conclusion, that in my opinion a provision should be inserted in this Constitution—the provision that is now under discussion is not what I desire and I do not care to vote for it, unless it can be limited so that even when submitted to the people they cannot authorize the investment of money unless it be for some public purpose. But I say that such a restriction should be placed there and that it should not be left with every legislature that comes along to be carried on as people are in the excitement of booms and prosperity, and looking ahead and anticipating great things to go on and plunge the State or the county or the city into debt and then when the bubble bursts, as it did with us, let this load come down in crushing weight upon the taxpayers and upon the poor people.

Mr. EVANS (Utah). Mr. Chairman and gentlemen of the committee, as has been stated here by the gentlemen upon this floor, that they did not expect to convert any of our republican friends to our idea, I perhaps may be in the same condition, but my position is now and it always has been that it makes no difference to me whether I am converted or not, if I think that my position is right. I desire to make a few remarks upon this question. The gentleman from Salt Lake (Mr. Cannon), told this committee of some of the history of the Utah sugar factory, which I believe was not true. I am very sorry to have to enter into that question. I avoided it last fall as much as I could in the campaign, but I am on record in my own town and in my own county as against bounties in every shape and form, because I believe it is wrong. Mr. Cannon says that if it had not been for the bounty the Utah Sugar Company would not have been established. I would

like to call the attention of this committee to the fact that before the bounty was ever passed by the Utah Legislature, and that was passed before the bounty was passed by the United States, that the Utah Sugar Company had incorporated, and I want to suggest here that before any company can incorporate under the laws of the Territory of Utah, they have to subscribe an oath that they have begun or it is their bona fide intention to begin, that ten per cent of the capital stock has actually been paid in and that they verily believe that each subscriber is sufficiently able to pay in the balance of the stock subscribed. Now, when a gentleman takes the position, if my statement be true, that that company was incorporated before the bounty was passed—

Mr. CANNON. May I ask the gentleman a question? I would like to have you give me the date on which the sugar company was incorporated.

Mr. EVANS (Utah). I think it was in 1889.

Mr. CANNON. Do you know the date?

Mr. EVANS (Utah). No, I do not.

Mr. CANNON. Would you kindly give me the date on which the law was passed providing for a bounty?

Mr. EVANS (Utah). I think it was in 1891—in 1890. It was incorporated in 1889, and the factory begun in 1890, as I remember it.

Mr. CANNON. I would like to ask the gentleman if he makes his statement from his own knowledge?

Mr. EVANS (Utah). I make my statement from my own knowledge, that it was before the bounty was given.

Mr. CANNON. I ask the gentleman if he has compared the dates and knows that to be a fact?

Mr. EVANS (Utah.) I am not positive about the dates, but it was the year preceding the time of the giving of the bounty, which I think was in 1890. That part I assume to say I am positive on. Now, I assume to say that

whenever a man takes that position that he charges the incorporators of that company and particularly those honorable gentlemen who went before the probate judge and subscribed an affirmation that it was their bona fide intention to incorporate, with bad motives; and I think it ought to be resented. And if that logic be true, then, sir, I submit to this committee that the fact of passing the territorial bounty, nor the United States bounty, was the immediate cause of the erection of the Utah sugar factory. He stated that that had been growing and continuing to be built since. I would ask the gentleman to point out and name a single one that has been built since the passage of the bounty bill by the United States. I want to say to you, sir, that my opinion is that whenever the time is propitious—whenever the industry and the investment that is to be entered in is profitable or it is believed to be profitable, by those who are to enter into it, that the capital will be furnished and that those industries will be started whenever they think that the end will justify the means.

One gentleman from Iron says that they have plenty of iron—their mountains are teeming with it. They have coal in abundance. Then, I ask if that be the fact, ought they to ask other parts of the Territory which are not teeming with these facilities, to assist in paying to them to establish an industry in their midst? That argument might be used individually. I know of a very beautiful place, not far from where I reside, where great flocks of sheep might be spread over a thousand hills, and, sir, I know of individuals who would be very likely to care for them and make a very profitable investment out of them, if somebody would come to their assistance and their aid, for the purpose of assisting them to start. Now, the objector will say that such an argument as that confines it

down too close, that the great emoluments that accrue to those in the Territory will not be received the same as it would from an industry. I say to you in answer to that, sir, that it does not require the same amount of assistance, and in proportion to the assistance that he receives in starting that individual enterprise, so will the public be benefitted by reason of that just as much as will the public by reason of a corporation being instituted and establishing an industry, therefore, I think the argument is not good and I am opposed to it. We talk about starting in this new State under a heavy taxation. I want to suggest to you, gentlemen of this committee, that I believe we ought to guard the taxing power more than any other one thing that should be instituted in our State government. I say, Mr. Chairman and gentlemen of the committee, that if there is one thing that we shall guard in this Constitution—if there is one thing to my mind that will have a tendency to defeat this Constitution—we have heard from gentlemen upon this floor in most eloquent language, in glowing terms, of certain things that were proposed to be put in the Constitution, that would have a design and a tendency to defeat it, but my candid conviction, sir, is, that there is not a thing that will be placed in this Constitution that will have a tendency to defeat it as will the fact that we shall make it possible for the people to be burdened and laden with unjust taxation. I am opposed to it for that reason. I think the power ought not to be granted. I believe that the people of this Territory are sufficiently proud. I believe that they are sufficiently industrious. I believe that they are sufficiently united, that, as each question shall be presented before them, as the necessities shall demand, that they shall join together heart and hand and walk abreast. That they will accomplish the designs of building manufacturing institutions and industries in this

Territory by their own frugality and by their own efforts without the aid of any state, and I, as one, shall be more proud in looking upon an industry in which I am interested as an individual where I shall have accomplished with my mite, in connection with those of my fellow citizens in rearing it under the broad canopy of heaven, to shed abroad in the Territory or the new State, as I hope it shall be, its benign influences and emoluments and benefits to those who are less fortunate than perhaps I myself have been. I am opposed to it on principle. Talk about entering into party questions. I say to you, gentlemen, that if I stood here alone upon this floor with the convictions that I have, not as a party—if there was no party in it, I would stand up and declare as I declare this afternoon, that I am opposed to it upon principle, because I believe it is a vicious system.

Mr. L. LARSON. Mr. Chairman, I do not rise to discuss this question, because to me it appears to be a useless question to indulge in upon this floor. This question has been gone over pro and con in the country and I am utterly tired and disgusted about all this talk on this question here to-day, and I appeal now to my republican friends upon this floor to refrain from any further indulgence in the discussion of this question. It takes two to make a quarrel and if one side will refrain and be silent I suppose by the time they have blowed their guns everything will be silent and then we can get to a vote on the question. [Laughter.] I am a republican. I believe in home industry as my friend said from San Juan County, but I will go a little further. I believe also in protection to home industry.

Mr. MORRIS. Mr. Chairman, I would like to correct one idea of some here in regard to the sugar bounty. I think I know something about the sugar factory. I have had a go with it from the beginning. In regard to the incorporation of that company, I will say

that there were fifteen men of us joined issue and deposited a hundred dollars apiece to form a company for investigation. Those committees went upon their own means, for they subscribed in this stock—a portion of the committee was selected out of the fifteen to investigate the sugar factory in the east. That was the cane factory, and the beet sugar factory in California, and we took plenty of time to investigate, and we came to the conclusion that the beet sugar factory could be established with great benefit to these people in Utah. After we had had the soil analyzed we found that this climate and this soil was equal to any for a sugar factory, so it was not jumped in all in a hurry. I will say, before we made a contract for the machinery for the Lehi factory, the McKinley bill had passed, because one prominent member in the company who did not favor bounties questioned very seriously whether that bill had passed, because he had not read it, and we took the pains to send for a copy and have it read to that gentleman before he gave in. Then he gave in. And I will say to the credit of Honorable George Q. Cannon, who deserves the credit of that Lehi mill to-day—the Lehi factory, he says, “I will give in thirty-five thousand dollars to start with, for the sake of finding employment for the people and market for the farmers for their produce.” That inspired the balance of us to join issue in that thing, and I can tell you, gentlemen, that if ever a company was organized with a pure motive for the benefit and the welfare of the country—I should question any outside of the Lehi factory, for we did not expect to get returns and neither have we, but I will say this right here before my friends, the minority, that if it had not been for them misrepresenting in their campaign to kill that enterprise as far as they could, it would have been a grand success—a grand success. But the country was flooded with misrepresentation in regard to this company,

that it was a monopoly to make fortunes, and I will say here that we have not received a single dollar in return for our investments, and while they say it was a monopoly, we offered a portion of our stock to them for twenty per cent. less than we gave, after spending the time and starting that company, and I will say further we received thirty thousand dollars bonus from Salt Lake City, but I am safe in saying that they received seventy or ninety thousand back, and when they charge that voted for this company in getting bounty to rob the poor—ask the poor who have been sustained by the sugar factory how they feel about it. [Applause]

Mr. CREER. May I ask a question? The gentleman states that it is plenty of benefit to the poor. How is it, Mr. Morris, that in the immediate vicinity of the sugar factory—take it in the district where beets are raised, that they have elected members to this Convention who are democrats, and who run ahead of their ticket, even in the town where the sugar factory is located? If it has been such a great benefit to the poor, why is it then that they are not appreciated? Please tell me that, in every district?

Mr. JAMES. I arise to a point of order. What has the voting of the people down in that part of the country got to do with the question before this house?

Mr. CREER. The gentleman cannot crack that nut, that is what is the matter.

Mr. MORRIS. I don't know anything about politics at all. I never interfered. I will say from personal knowledge, and I question any man to contradict it, if Utah County has not received benefits from the Lehi factory, three or four to one, whatever it cost them in bounty. I also state here that for the year 1894, we paid something in the neighborhood of forty-five to fifty thousand dollars in salary alone on that factory. We paid the farmers of

Lehi and Utah County to the amount of one hundred and sixty-five thousand dollars for beets, and if they have not been well paid for the bounty that they gave to establish that factory, I would like to know. But I will say this, gentlemen, if the bounty of two cents and Utah one cent, was not given at the time, I question whether that factory ever would be built. That is all I have got to say now. I oppose the section presented here.

Mr. CANNON. Mr. Chairman, the statement that has been made by me has been questioned on this floor by a gentleman who has stated that I did not tell the truth. I do not know why he should make such a statement. I can prove that which I asserted. It is a fact. It is borne out by the statements of every man to-day connected with the sugar company. The Utah sugar factory would never have been built, and the machinery, as it now is, paid for, had it not been for the McKinley bill, providing for the bounty that it did, and the aid also which was furnished by the Territory of Utah. I was one of the original incorporators of the company, but the amount of stock that was subscribed by the men who started it out was too small to ever conduct their enterprise to a successful termination. I have examined within the last ten minutes, since the gentleman made his assertion, the articles of incorporation in that company. They are on file in this building and are open for your inspection, if you wish to examine them, and if you will examine them and find the amount subscribed by the gentlemen who did subscribe, if they had paid the full amount in cash, it would not have commenced to pay more than one-thirtieth of the cost of the Utah sugar factory. In order to build that factory and to conduct the enterprise, it was necessary to enlist more capital, and to that end the services of different men were brought into play, and those men

refused to take part in the building of that factory or in having anything to do with the stock of that company until assured that the bounty had been provided for by the McKinley bill. In addition to that, one of the most prominent promoters—one of the directors who is a democrat and a very able man, refused to have anything to do with the matter until he had in addition a copy of the McKinley bill and until he had the opinion of an attorney to the effect that it was considered a binding contract, which he did have, and that the United States would, in all probability, be compelled to pay it for fifteen years. That was what was done upon that subject.

Mr. EVANS (Utah). Is not it a fact that that incorporation took place before the passing of the Territorial bounty—not speaking now of the re-incorporation or the increase of capital stock, but just as I stated, is it or is it not a fact?

Mr. CANNON. I would call attention to this fact, away back when this valley was first settled, a Utah sugar company was organized that brought machinery from France, and built right out here in the ward in which I live—

Mr. EVANS (Utah). I asked you about 1889.

Mr. CANNON. Permit me to answer the question in my own way. I will answer it if you give me time. They built a factory here and it was a failure and an attempt was made at different times, including one time when five thousand dollars was paid—I think the exact amount was five thousand dollars. Mr. Thurman was a member of the Legislature and can correct me if I am wrong, for four or five thousand pounds of sugar. The gentleman who made the first five thousand pounds of sugar in Utah Territory, I think, was Mr. Arthur Stayner. I believe he received five thousand dollars which was promised. The gentleman from that time to this has been earnestly seeking to establish

sugar factories. He had different men interested with him at different times, but the company which now exists was not on its present basis and the capital could not be induced to go into that until, as I stated, the bounty had been promised by the government and by the Territory of Utah. Those are the facts in the case.

Mr. EVANS (Utah). I would like the gentleman to answer that question more direct.

The CHAIRMAN. Mr. Cannon's statement this morning, as the stenographer's notes will show, or his first speech this afternoon, was to the effect, that the factory never would have been built. He did not say anything about incorporation.

Mr. EVANS (Utah). My point was—

The CHAIRMAN. You said that that was not true, and that is what he is controverting.

Mr. EVANS (Utah). My point was that it was incorporated before, and there were certain stipulations that that money was paid in. Now, are we to charge those men with bad faith? If not, then—

Mr. BUTTON. Which one of those gentlemen is on the stand?

Mr. CANNON. I will state in explanation of that point that a man may not be in bad faith that wants to carry out an enterprise that he may lack funds for. The fact that a man is poor, but is struggling to establish a factory, would not be an evidence of bad faith on his part; but I stated before, and I reiterate it, that without the promise of that bounty, it would not have been possible to have induced the investment of the capital necessary to build the Utah sugar factory. I am surprised at the gentleman posing that he comes from that town, and that he would not be true to himself if he did not speak against bounties and against the principle by which that factory was established. If we go to that town, the fact that the gentleman was elected from it

and is a democrat is no evidence to my mind that the sugar factory is not a benefit. I believe he is an honorable gentleman.

Mr. EVANS (Utah). I did not make that argument.

Mr. CANNON. I will call attention to this fact, that this year at that place, according to the company's statement published the other day, they paid for beets of 1894, 32,694 tons of beets, a cash amount of \$175,539.99; the total amount which was paid out, exclusive of the amount paid for interest was \$261,699.79. The amount of sugar manufactured and sold to the people was 5,106,500 pounds, while this estimated the amount of sugar now in process of manufacture, at 438,000 pounds. I would call attention to the fact that in addition to the amount paid directly in this way, they used coal of the coal miners 5,130 tons, they used lime rock furnished by the quarrymen on Pelican Point, 1,768 tons; they used of coke, 220 tons; of Utah sulphur, 11 tons. Then a great many other minor details that were used in the same way. The gentleman may laugh at the idea of that being important in this matter, but I say to-day that if we had more factories and less democratic doctrine the people of Utah would be in a better condition. [Applause.] I say to-day, that under the democratic rule, and with democratic principles, that has been one of the things that has alone saved our people from greater financial distress than they have already suffered. While the gentleman this morning said he did not want mushroom prosperity, I claim that mushroom prosperity is better than the kind of democratic prosperity that has been given to us in the last few years.

Mr. CREER. May I ask a question? Is there not as much democratic capital invested in home industries in Utah as there is republican capital?

Mr. CANNON. I hope so. Because if there is, I think we will probably have

them after awhile apply correct principles to their own industries. The gentleman this morning, in his remarks, declared that the gentlemen believed in taking the money of the poor to build up the rich. That he did not believe in taking that from the masses to confer it upon those who were wealthy and comparatively few in number. I would call the attention to this fact, that in the building of that factory, the amount taken from Utah—from the people of Utah was very trifling indeed. Take a man who had a farm worth two thousand dollars, and in any one year when Utah bounty was in operation he did not pay on that two thousand dollars to exceed nineteen cents. Is that too much? Is there a farmer in Utah with a farm worth two thousand dollars who would not be glad every year to put his hand in his pocket and pay nineteen cents toward the establishment of factories in all parts of this country? I would claim that the most money that is taken for bounties comes from the rich and not from the poor. You take the banks of Salt Lake City alone. They pay more towards the bounty by which that sugar factory was established than the farmers of any county in Utah combined, the wealthiest county that you may select, and the money came principally from the wealthy and not from the poor. The widow who had a home worth five hundred dollars was taxed a little more than four cents, and it was used in establishing an industry that has benefitted the whole people. Not only has it kept money at home, but it has taught the people of Utah a better way of using their land and tilling their soil and has benefitted them vastly in that respect. It is not applied to one class, but it has been to the agriculturist, to the coal miner, to the merchant, for the money kept here has benefitted him and every class throughout the Territory.

Mr. PIERCE. I would like to ask the gentleman if the price of sugar has not

been higher in Utah than any similar market in the United States, since the factory was established?

Mr. CANNON. I do not believe that it has. But I can say this, that as I stated this morning, it has been lower in Utah every time when the Utah product was upon the market, than it has at any other time, and that before the Utah product comes in, it is higher, and then drops after it comes in, and after the Utah product goes out of the market, it immediately rises. I have the amount in each year here, if any gentleman desires to hear it. The other day it was stated by Mr. Cutler, in answer to a question, that as soon as the Utah product was off the market, within one week the price of sugar advanced from fifteen to twenty-five cents a sack in this market.

Mr. PIERCE. Mr. Chairman, there was an argument made upon the floor sometime ago, that Utah County was represented in this Convention by democrats, and that was an indication that Utah County was opposed to bounties. The figures do not tell stories, and I have before me the statistics, and I want you to take the analogy of it. Take this statement that we have. Utah County in 1891—the democratic vote was 1,958, the republican was 1,011. The sugar company was established, if I recollect correctly, in 1889, and the bounty first granted by the Legislature of 1890. Ever since that year, 1891, the republican vote has been increasing, and every year the democratic majority is less and less, and because the sugar factory is now in Utah County, I expect to see at the next Legislature, Utah return all republican delegates to the Legislature. [Applause.] That is the argument made by the gentleman of Utah County, and I say that the statistics that we have here are a complete answer to his argument. I would like to read the figures:

In 1891, democrats, 1,958, republicans, 1,011.

Now, let us look and see in 1894: the vote was, democrats, 2,632; republicans, 2,551; less than one hundred majority. The next time we hear from Utah County upon this bounty question, we will have a solid republican phalanx here.

Mr. THURMAN. Have you got the vote there by precincts?

Mr. PIERCE. I have not the vote by precincts.

Mr. THURMAN. I wish you had. I would like you to compare the vote of Lehi, where the sugar factory is, in 1892 with 1894. You will find a gain of about fifty democratic votes right on the very spot where the factory was built.

Mr. PIERCE. Bring in your statistics. I have the statistics here to back me.

Mr. VAN HORNE. I would like to ask one question of Mr. Thurman. Is not it a fact that you yourself accounted for the local majority of Lehi on an entirely local cause, and separated from the question of the sugar factory there?

Mr. THURMAN. Not that I am aware of. I do not know that I ever made any excuse for it, except that the people over there, when they came to send a man to this Convention, they voted ahead of the ticket to send a democrat here with a view of putting into the Constitution just such a clause as we are seeking to get now.

Mr. CANNON. Was not that because he was such a troublesome neighbor that they wanted a rest?

Mr. ANDERSON. Mr. Chairman and gentlemen, I am opposed to this motion. The principles expounded by the members in favor of this motion may sound very well in theory, but according to my experience, they did not result and they have not resulted so happily in practice. The people of Utah do not want this prohibition in the Constitution. And I think they spoke in emphatic tones at the last election.

Mr. JOLLEY. Mr. Chairman, I was a little surprised to hear the question

asked in relation to the factory being a blessing to Utah County. If you think it is not a blessing to Utah County, you people that live in Utah County go out into the adjoining counties on the south and stop there. Some people when they gather in their harvest of wheat and oats and barley, and have to sell it out for about thirty or thirty-five cents a bushel in order to get money to pay their taxes—

Mr. EVANS (Utah). Might I ask the gentleman a question? I would ask if that statement came from the democratic side of the house?

Mr. JOLLEY. The question was asked from the democratic side of the house, if the factory had been a blessing to Utah, why did they send democrats here.

Mr. EVANS (Utah). There was no such question asked.

Mr. JOLLEY. I would like to ask another question. That is about all I have to say, and that is if it is not a blessing and a benefit to the people of Utah, why do they keep putting in thousands of acres more of beets every year from the beginning? When your beet harvest is going on you inquire of the little boy that is going into the field to gather up the beets and he will tell you that he will get from fifty cents to six-bits just for picking up beets and his parents have the money in a few days to pay their taxes, whereas if it was not for that factory, Utah County would be put about to hunt money as other counties have to in order to find a little something to pay their taxes with. I say that the ones that depreciate anything the most are the ones that you make a present to of anything and I think that that is the ungratefulness of Utah County, if there is any. The blessing is dumped down in their laps and in order for them to see and derive the blessings therefrom, they should get off a little distance and look back at those receiving the fifty cents and six-bits for their children daily gathering up

the beets and sending them to the factory.

Mr. EICHNOR. Mr. Chairman, I asked Mr. Thurman of Utah County a little while ago who moved the previous question in the United States senate. The question was an absurdity. The question should have been this, who was the chairman that reported the bill for the demonetization of silver? The answer would have been Senator Bayard of Delaware.

Mr. GOODWIN. Mr. Chairman, is Mr. Eichnor to be permitted to explain all of his absurdities?

Mr. ROBERTS. Mr. Chairman, when we had under discussion on this floor, the question which involves the right of eminent domain and the taking of private property for public uses and the taking of private property for private uses, a very prominent republican upon this floor made this statement, that he was opposed to taking private property for private uses under any circumstances. He believed it to be a vicious principle and that, sir, I take it is the question that underlies the discussion that is now in progress—the taking of private money by the strong arm of government for private uses. That is the principle against which the democrats are contending in this issue. I hold it, sir, for one, to be worse than highway robbery, for the reason that if you are met upon the highway by a man who takes it upon himself to command you to throw up your hands while he goes through your pockets, you have then some chance in the personal encounter to hold onto that which is your own. But when you give unto the government the power to go to every man in this Territory and take from him in the form of taxation money which the hand of the government may confer upon favored classes, engaged in private enterprises, I take it, sir, that it is an outrage and it is useless for men to tell me that that power will not be

abused and in the end bring disaster to the people.

The gentleman from Salt Lake this morning in discussing the power of wealth was certainly correct in his statement that its power had not been properly estimated. I, sir, am not very particular about looking after the rich. They are competent of taking care of themselves, but it is in the interests of the masses, it is in the interests of the people, it is in the interests of the poor, that the strong arm of the government be not allowed to aid those individuals, already strong, in increasing their strength by making them the patrons or giving government patronage. Now, I take it, sir, that this discussion is not altogether unfruitful and that in reality we are making some progress. The gentleman from Iron County conceded that last fall the question of allowing the State to loan its credit in the aid of private enterprises was not an issue in the campaign. We always knew that our republican friends were in favor of giving public moneys in aid of private enterprises, but hereafter, when we reject this amendment that is offered or this section that is offered, we shall forever know that you are not only in favor of giving public moneys in aid of private enterprises, but you are also willing that the credit of the State should be used in the same way and that you would vote upon the people burdens of debt, in order to accomplish the same purpose. We shall know that hereafter, and I freely believe that had this issue been made in the campaign of last fall, we would have had a very different complexion politically to this Convention, because however much you might persuade the people that it was right to use public moneys in aid of private enterprises, I think you would never have brought them up to the point of consenting that you plunge the State into debt for the same thing.

I am exceedingly sorry in one respect

that this question of the sugar factory in this Territory has been brought upon the floor of this Convention. Personally, I have a very high regard for that enterprise, and for the gentlemen who launched it, and in answer to the remarks of the gentleman from Salt Lake (Mr. Morris) in which I understood him to accuse the democratic party of having made misrepresentation in regard to that enterprise in the last campaign, I wish for myself at least, to resent the statement that there was any misrepresentation made in regard to that enterprise. I know, sir, that when it became notorious that the great sugar trust of the United States had laid its hands upon that industry, with a determination to choke out its life, from that time on at every democratic meeting that was held, I for one, at least urged the people to stand loyal to that industry and to patronize its product, even if they had to pay a higher price for its sugar than they could purchase it in the general market for. Resolutions were sent to nearly all of the meetings held under the auspices of the democratic party as soon as that became known, and for one, I was willing and am willing in this way to assist that enterprise. But, I am not willing even that this enterprise, laudable as I grant you that it is, should be sustained and supported at the expense of the people of this State, because, however laudable this enterprise might be, it is very likely, sir, that other companies will form and other projects will be inaugurated which will not be so laudable, and gentlemen engaging in them will not be moved by such patriotic sentiments as those that actuated this present company. I do not wish to take up the time of this Convention unprofitably, but, sir, you shall not find another question that will come before this Convention that is more important than the question as to whether there shall be any limitation put upon the power of the Legislature to tax the people.

Nor shall you find a question more important as to what the purposes of taxation shall be, and when gentlemen undertake to tell me that this is a political question and try to side-track it, and to ride on to the accomplishment of their purposes and not listen to the objections of those who have objections to urge against their proposed plan of construction of this government for the new State, I wish to say that I take issue with them, sharp and clear, so that even the minority, however small it might be, has a right to be heard upon the great question of fundamental law. It is a mistake to say that there is no importance to these questions. They are important, and the minority have just as much right to expound their views upon this question as the majority have, especially when you take into account that the majority, by merely keeping silent, as was pointed out this afternoon, affirm their political doctrines, because if there are no limits put upon the Legislature in the matter of taxation, and if there is no purpose under heaven but what they may exercise that taxation for, by being silent upon it obtain, and I take it that the minority who do not see the question in that light, have a right to be heard in argument upon that issue. I was about to remark, that I regretted that this sugar company had been referred to, that in some respects, I am sorry, in other respects I am not sorry that it has been alluded to for the reason that it gives a very good illustration of the abuses that are apt to arise under the bounty, because of the policy of our republican friends. Gentlemen have stated upon this floor that this factory has affected the price of sugar to the people. That when its product is upon the market sugar is lower. That when its product has been consumed sugar is higher. We learned last year how that came about. It came about, sir, not because of the existence of the sugar factory in this Territory, but it grew out of the

fact that the gigantic monopoly, now so strong, that it is able to measure arms with the government itself, was operating here and endeavoring to crush out the life of this home enterprise. It quoted its prices and the factory here in Utah had to cut its prices to meet the reduction, still the home product was left in the hands of dealers and the foreign sugar was being purchased by our merchants. And why? Because that sugar trust was giving a rebate, was cutting under its prices, and our merchants were purchasing the sugar at quoted prices with a rebate, and hence our home product could not find a market here among us and they had to reduce again to meet the cut, and thus the sugar trust of the United States operated against our home industry, until it was compelled to put its product upon the market at the same price that the trust was selling its sugar for, and the effort of the trust was to destroy the life of the home industry.

And, Mr. Chairman, it is yet a question whether they will not succeed in this instance as they have succeeded in other instances. And now, you go on feeding this industry. What assurance have you that instead of aiding our own citizens in an enterprise, it will not finally terminate that you have been feeding bounty not to our home factory here, but to the sugar trust of the United States? It is herein that the viciousness of this principle in part is seen.

Mr. CANNON. Will the gentleman yield for a question? Would a bounty of one cent give the sugar trust the same advantage that a tariff of one cent would?

Mr. ROBERTS. I do not know, sir.

Mr. CANNON. Is it not a fact that that which we consume in the United States amounts to from eight to ten times that which we produce of sugar?

Mr. ROBERTS. I am not acquainted with that fact.

Mr. CANNON. That is a fact.

Mr. GOODWIN. May I ask Mr. Roberts a question? Is not it true that the sugar trust never attempted to make any inroads on the Utah sugar factory until the bounty was taken away?

Mr. ROBERTS. I cannot say, sir. I am not acquainted with that fact.

Mr. GOODWIN. Well, that is the truth.

Mr. ROBERTS. Mr. Chairman, whether bounty or no bounty is given to the home industry, you will find that sugar combine making war upon these enterprises outside of the combine, until they are forced into the trust. That is the purpose of the war made upon the independent factory, and it is true, sir, that the gentleman alluded to by my friend from Salt Lake, Mr. Cannon, who has been engaged in the establishment of sugar factories in this Territory, had a long conversation with me upon that subject and I asked him how it was that he did not establish or seek to establish a factory up here in our county that has a soil and a climate unsurpassed for that industry. He said that he dared not. The enterprise could not be launched for the reason if we undertook to establish too many independent factories the result would be that the trust would make war upon those factories until the life was crushed out of them. The gentleman from Salt Lake made the statement that from the beginning of our history in this Territory this policy of paying bounties had been favored by the people of Utah, but I wish to say that there was at least one prominent—the first governor of this Territory, who has left himself upon record as against the principle involved in this issue. I read from the governor's message to the senators and representatives of the State of Deseret—that is, the prospective State of Deseret, in 1850. He made these remarks:

There is no doubt but that the de-

mand and price consequent upon the distance of any successful competition will prove sufficient inducement for the capitalists to invest their means in whatever will necessarily prove a safe investment and insure an abundant return. Any and all kinds of encouragement by throwing around them an energetic and efficient government should unquestionably be given. It is wisdom to let capital be associated in infant settlements, because there is a necessity for it, for a time, but to lay the foundation for money capitalists to monopolize against labor is no part of my policy, politics, or religion. To engage enterprise in constituting works of magnitude, it may be well to guard the privileges, but they should be so guarded as to be made amenable to the power granting them at all times, for the abuse of the powers granted, or directing them to another object than the one designed.

I take it, sir, that that is one of the "nuggets" that escaped publication. I recommend it to the consideration of my friends in their new additions. The gentleman from Salt Lake (Mr. James) believes that I in reality am not against using the taxing power of the government in aid of individual benefits, and he points to our school system—that is, our system of free schools sustained by taxation, and I presume means to infer that by sustaining schools by taxation, which results in the education of individuals, that therefore, since I favor a free school system in that particular, I am in favor of using the taxing power of the government for individual benefit. Such I understood to be his argument.

Now, in answer to that, I have only this to say, that that is not for a private benefit. It is for a public good that the citizens of the State shall be an educated people. It is not for the purpose of securing private gain or building up private fortunes. That is not the question at issue in the argument presented by the gentleman on that particular point. And that is open to the rich and poor alike. My friend from Utah suggests it is altogether a different question. The question involved in the point under consideration is, is

it a benefit to the State, is it a benefit to the public that all the people shall be educated? There is but one answer to that question and that answer is in the affirmative. It is the State's security. It is the State's welfare, that is provided for in our public educational system, and not the individual who receives the education. The State is not interested in that issue in looking after the individual, but it is looking to the interest of the entire community, and it is quite a different question to that which involves the building up of private fortunes, by taxing the people to that end, whether they be rich people or poor people. Now, I have, as already expressed, full confidence in the gentlemen who have started this enterprise that has been spoken of, the Utah sugar factory, at Lehi. I am willing, sir, to say with the gentleman from Salt Lake that their motives are pure. But what are corporations largely formed for—nay, what was this company formed for? To benefit the people, we are told, and in this particular instance, since I have a personal acquaintance with many of the founders of that scheme, I am ready to grant that, but that is only part of it. It does not only involve the benefit of the community, but that corporation, however pure its intentions were, also believed that they were engaging in an enterprise that would result in increasing their own wealth, as well as being a benefit to the people. Corporations largely are not formed for the sole and patriotic purpose of giving employment to people, but for amassing wealth to be used by themselves personally and individually.

And I take it, sir, that that will be the purpose in the future, and if you put no limitations either to the amount of taxation or the purpose for which taxes shall be levied, and require only a bare majority to secure the levying of these taxes, then I wish to say that the future experience of Utah Territory will

be just what the experience of other states has been, that you will find your Legislature besieged by the agents of corporations, who will come here for the purpose of feeding upon the substance of the people, collected from their hard earnings, by the strong arm of the government, and it will not always be to build up our own citizens either, but foreign companies will be organized, and their agents will be here for the purpose of securing legislative aid. Now, sir, it is to provide against these evils, that the minority have offered the various sections which you have voted down. Now, that you have voted three, as I remember it, of these sections touching this point of political doctrine, we offer you a modification and say, that if the people are to be taxed in aid of private industry, then at least it ought not to be done unless two-thirds of the people are willing that it should be done. Gentlemen have asked, how is it that you single out this particular power of the Legislature and purpose to limit its power in this respect? Why not require a two-thirds majority for the passing of any enactment of legislation? If the gentleman would but pause a moment and reflect upon it, he would not want that question answered.

The reason for requiring a two-thirds majority for loaning the credit of the State to any individual or company or association, or granting its public moneys in aid of private enterprises is of such vital moment and touches so nearly the interests of the people that we are justified in saying that in this particular instance you shall not exercise this power of government unless the majority in favor of it is so large that it amounts to two-thirds of the voters. Now, Mr. Chairman, I take it, that we have placed our friends upon record. We have placed ourselves upon record in this issue. We have done what we could by argument, by reason, by offering sections to this Constitu-

tion limiting the power of the government in this particular, and if in the future disaster, which has overtaken other states which insisted on following the same policy that you now insist upon, when these calamities come, we will have freed ourselves from the responsibility in the case, and it cannot be said in future years that there were men upon the floor of this Constitutional Convention who believed that granting to the Legislature power to use public money in aid of private enterprises and to use the credit of the State in aid of private industries—it cannot be said that we remained silent and allowed you to draw the lines of the fundamental law in such a manner as to grant these powers without our objection. We have, at least, in this issue discharged our duties and we are willing to stand upon the record made here, whether it shall result in a second Waterloo or not.

Mr. MURDOCK (Beaver). May I just ask the gentleman one question? Do we understand that the incentive of the sugar company was the emoluments that they would derive from the investment?

Mr. ROBERTS. I say, Mr. Chairman, that in part that was it. I tried to explain myself that I was willing to accord to those gentlemen patriotic motives, but that was not their whole object. That they considered that they were engaging in an enterprise that would result, not only in benefit to the people, but good for themselves.

Mr. MURDOCK (Beaver). Of course that is very true.

Mr. RICHARDS. Mr. Chairman, I desire to offer an amendment. I desire to have added to the section the following words, "and then only for public purposes." I understand the gentleman from Davis accepts the amendment.

Mr. ROBERTS. Yes, sir; I accept the amendment.

The question being taken on the adoption of the section proposed, the

committee divided, and by a vote of 36 ayes to 49 noes, the section was rejected.

Mr. CANNON. Mr. Chairman, I move that when we rise we report the article for adoption.

Mr. VARIAN. Mr. Chairman, I want to call attention to paragraph 9, section 31, that was reconsidered on yesterday, in order that it might be examined a little further. I would like to have it considered for a moment in connection with section 24 of the bill of rights. The committee will observe that section 24 of the bill of rights prohibits generally the granting irrevocably of any franchise, privilege, or immunity, while paragraph 9 of section 31 is relative to special laws. The intention is to prohibit the granting to an individual, association, or corporation of any privilege, immunity, or franchise by special law. Inadvertently it seems to me the standing committee have incorporated in there the language, "irrevocable, special or exclusive."

If it shall stand there, it would seem that by implication the Legislature might grant by special laws to associations general privileges, immunities, or franchises. In order to harmonize it with the general intention of the Constitution, taking the two sections together, the one of the bill of rights and the other here, I submit that the words "irrevocable, special, or exclusive," should be stricken out, in which event we would have in the bill of rights a general provision against irrevocable grants, and in this article you would have a provision against granting by special law any privilege, immunity, or franchise. I would like to call the attention particularly of some of the lawyers in the house to that question, in order to be certain that I am not making any mistake about it, and I move to strike out from this paragraph the words "irrevocable, special, or exclusive."

Mr. RICHARDS. Would you have any objection to letting this be re-

ported with that language in and bring the matter up on third reading, which would give us an opportunity to consider this question.

Mr. VARIAN. Not at all; I prefer to have it that way, if the gentlemen will kindly give it their attention.

Mr. RICHARDS. We will try and be prepared at that time to act upon it.

Mr. VARIAN. There was another matter I wanted to direct attention to in order that I might bring it up on the third reading. I purposed offering this amendment here, but in accordance with the suggestion of my friend from Salt Lake, Mr. Richards, I think it is better to delay it in order that it may be considered a little further. To add at the end of this section:

But nothing in this section shall be construed to deny or restrict the power of the Legislature to establish and regulate the compensation and fees of county and township officers, to establish and regulate the rates of freight, passage, toll, and charges of railroads, toll roads, ditch, flume, and tunnel companies, incorporated under the laws of this State, or doing business therein.

With that informal notice, I would be glad if the gentlemen would be thinking about it.

The motion of Mr. Cannon was agreed to.

The committee of the whole then proceeded to the consideration of the article on executive.

The CHAIRMAN. The chair is informed that we had progressed to the twelfth section of the article on executive and the question is on the adoption of the substitute offered by Mr. Eichnor.

Mr. EICHNOR. Mr. Chairman, that is a substitute for section 12. The substitute I proposed gives the governor the power to pardon for misdemeanors, without the consent of the board of pardons; if a person is convicted of a misdemeanor, if you have a board of pardons, before you would have a hearing before the board of pardons, the man has generally served out his sen-

tence in the county jail or in the city jail, or wherever he may be confined. In cases of felony—that is, an offense of imprisonment in the penitentiary, it ought to go before the board of pardons, and the board of pardons in this substitute consists of the secretary of state, the attorney general, and the state auditor. In section 12, as it stands, the board of pardons consists of the governor, justices of the supreme court, and the attorney general. I believe there are two states in the United States where the justices of the supreme court constitute the board of pardons, or a part of the board of pardons, namely, the state of Nevada and the state of Florida. In many instances cases are appealed to the supreme court of the state. The judges of the supreme court pass on the judgment of the lower court. If they affirm the judgment I think there would be very little show for any man to get a pardon, after they had affirmed the judgment. In other words they would almost stultify themselves if they would grant a pardon after they had affirmed the judgment. And there is another thing. A board of pardons should not be constituted of judges. I look upon a board of pardons somewhat in the light of a jury of mercy. It is true they examine the evidence, but they examine all the surrounding circumstances. They should not weigh every little technical point, whether the question was material, competent, or relevant, but they should view the whole case through the eyes of human wisdom, not hedged by technicalities. If we place this power in the hands of the judges of the supreme court, you virtually say to the people of the State of Utah, "We will grant no more pardons." Whether my substitute is perfect or not, I claim that it has this advantage, that it takes the power away from the supreme court, after they have passed upon it, that the governor, in misdemeanors, can pardon the of-

fender, without the offender resorting to the board of pardons.

Mr. MALONEY. Do I understand you to say that the attorney general is on the board of pardons?

Mr. EICHNOR. Yes, sir.

Mr. MALONEY. Is he the officer that in all probability will prosecute the offense?

Mr. EICHNOR. In all probability, I presume he is.

Mr. MALONEY. He would invariably think the conviction is right.

Mr. EICHNOR. I have found a prosecuting attorney is more apt to sign a pardon than a judge.

Mr. MALONEY. I do not think the attorney general ought to be on a board of pardons.

Mr. EICHNOR. The attorney general represents the State; I think the State should have one representative on there, that is fully in accord with the judicial machinery of the State.

Mr. MALONEY. I should think the governor would represent the interests of the State in granting pardons.

Mr. EICHNOR. You have good authority on your side. Senator Hill, of New York, does not believe in pardoning boards.

Mr. VARIAN. Mr. Chairman, this is a question of importance, evidently misunderstood. I should infer from the remarks of my friend from Salt Lake, if I understand him correctly, after you have exhausted all of the machinery of the government, provided for the enforcement of the criminal law, in aid of society, he would constitute another court of appeals, as it were, who are not guided by fixed and settled rules in their judgment, but are to determine these questions in accordance with the shifting views of the different persons who may from time to time compose the board. He fears that the judges who have passed upon the records, if there should have been an appeal in the individual case taken, might stultify themselves if, when called

upon in another and entirely different capacity, they should vote in favor of a pardon or a commutation of sentence. My friend on the other hand also fears that the law officer of the State to whom the people have entrusted the administration of the criminal law, would be so committed against a defendant, because he had occasion to discuss and argue the case in the appellate court, and he too might be counted on all the time to throw his weight and his vote in the scale against the application. Now, I do not understand that these objections are founded in principle and in fact. I believe that there are eight or nine states where the system of a board of pardons is in operation. Only two or three, as suggested by Mr. Eichnor, make up the board as this article proposes to make it up. The system has been in operation in your neighboring state ever since it became a state. It operates well. It operates in the administration of the law for the preservation of society as we wish it to operate.

It is founded upon this principle: after a defendant has been indicted by a grand jury and he has been charged by twelve men or such number of men as you may determine shall constitute a trial jury, and the court who tried the case has had an opportunity of passing upon his guilt or innocence and denies his motion for a new trial, and he goes still further to the court provided for the supervision of all these proceedings of the lower court, and the judges there, after careful considerate investigation in the light of the law and the fact, affirm the judgment, I say, sir, under the rules which ought to and must govern society that that fact of that man's guilt, as a general rule ought to be taken to be established, and in the very nature of things you must adopt that principle, that then, after all the methods provided by law have been exhausted in the absence of course of fraud or wilful and wicked wrong doing in an individual case,

which you cannot presume and which would correct itself by arresting the attention of the public instantly, you must assume that the man is guilty. Now, when you reach that point in the administration of criminal law, you have reached a point that the good of society requires that he must be punished, not only for his own reformation, but in order that others may be deterred in like circumstances from doing the act which has been adjudged to be an offense against society, and if the question of mercy is presented at all, it must come on other grounds and for other reasons than those connected with the guilt or innocence of the defendant. My belief is, and my position is based on a somewhat extended experience in the administration of the criminal laws, both here and in other places, that a man ought not to be pardoned unless there is some good or sufficient reason accruing after judgment, as a rule, that it is better for society that its laws should be enforced, and to enforce them it means that the punishment provided by law must be meted out to those who offend against the law.

The design of this article is (and it is in accord with the advanced penalogical thought of the age, the tendency is that way day after day and year after year) to put this question of pardons on a different and broader basis than it has been heretofore. First, constitute a board upon whom shall rest the responsibility. Second, require that the hearing must be had in public, that the State may be represented there as well as the defendant; do away with this whispering, and pulling and hauling on the streets and on the side by interested persons, where only one side of necessity can be heard. Require notice to be given of an application; that the State and the applicant be represented there, and hearing had and a judgment given practically as in other cases. That in theory and in principle underlies the system in which the governor

alone has the power of pardoning or commuting sentence, and in some instances, in some states, this rule is adopted of having a hearing, requiring applications to be filed, requiring notice to be given to the state's attorney, and proceeding in that way. So far as that is concerned, it can be no matter where the power is vested. As a matter of fact, I have never heard yet (and I lived under this system for some seventeen years) any complaint made that the judges or the attorney general permitted themselves to carry into the board of pardons any such feelings, or any such littleness, as Mr. Eichnor, my friend from Salt Lake, fears might be done. It works well, but if you do not like this board, re-arrange it in some other way. I would suggest and submit that the state auditor and the secretary of state should not be the persons to revise and review practically the administration of the criminal law. It requires, and ought to have, trained minds and intellects in those who are called upon to pass upon this great question and prerogative—I mean trained in that particular line relatively, taking into consideration the duties of society to the citizen, and the citizen to society, and the general interest of the entire community as a whole. This I believe is a statement of the ideas of the several members of the committee concerning this subject; further than that, I do not know that the committee is interested in sustaining this report. It is of course a matter of public concern and interest, but we submit that the amendment offered by the gentleman from Salt Lake does not begin to reach the question. It is conceived in a misapprehension, I think, of the entire subject, and is not at all comprehensive enough to meet the suggestions set forth in this article.

Mr. EICHNOR. Mr. Chairman, I would like to ask Mr. Varian a question. Under section 12, would not it almost be impossible to have a man

pardoned who was convicted of a misdemeanor—would not it be the next thing to impossible to get the judges of the supreme court and the attorney general together?

Mr. VARIAN. Not at all; not at all. As a rule these boards meet every quarter; it has a regular calendar, but the gentleman will notice that the governor has the power, pending the sittings of the board, to grant respites or reprieves, to suspend the operation of the sentence until the case can be acted upon at the next sitting of the board of pardons. It is inserted in here with that special purpose. I want to say only one thing more, that my observation has been that gentlemen of my profession, when they are engaged in the defense of a man charged with crime as a rule, want to carry it clear through to the last court permitted them by the law, and when they get through with that they are still not satisfied, and they immediately bend their energies towards securing influence and pressure enough upon the pardoning power to evade the execution of the sentence or getting their man turned loose through the medium of the pardoning power.

Mr. EVANS (Utah). I would ask whether you know of a case where that has ever been abused in our Territory—where men of your profession have prevailed on the governor, and it has been abused under the present system?

Mr. VARIAN. There are peculiar instances, with which I have been surrounded and connected, which, under the circumstances, prevent me from answering the question.

Mr. BOWDLE. Mr. Chairman, when this matter came up a few days ago, I understood the objection that was made to this article was on the ground that the judges of the supreme court would probably be so biased in a case on which they had passed that they would practically be settled in their opinion. I first thought that there was

some trouble with it, in that, but I believe that the practice upon questions of that kind removes the weight of the objection. As I understand it, when you take a case of that kind to the supreme court the court very generally does not look at the facts. They do not weigh the evidence particularly; they have left that for the jury and the trial court. They are more particularly concerned about whether the conviction was had in the manner laid down by law, and whether the legal matter was correct, and not so much the weight of the evidence in the matter, so that I do not believe that the supreme court judges would go into the question of hearing a pardon with minds made up, or prejudices, so that they could not sit there fairly and listen to it, and if it were right to grant it. I do not believe in making pardons an easy matter; I do not think we ought to do it. When a man has wilfully violated the laws of his state, has been convicted of doing that thing, we ought not to make it an easy matter for him to evade the punishment that has been put upon him, and if you leave it to the governor, or if you leave it to men who have not been trained in that particular thing, they are about like a jury—it is simply trying it over again to another jury, where they would not be even tied by the rules of evidence, and would be free to try the case over again without any rules of evidence, practically, binding them, and therefore I am opposed to this amendment; and while I do not know that I am entirely in favor of the section, as a whole, as it stands—upon that part of it, I shall oppose the amendment.

Mr. LOW (Cache). Mr. Chairman, I have a serious objection to the article in the report of the committee on executive, as well as to the substitute offered by the gentleman from Salt Lake.

The original is too voluminous and contains too much legislation, according to my views, and the form of the

substitute has serious points of objection, in my estimation. I do not believe that the governor should have the power to grant pardons absolutely as first appears in this substitute. I do not think that he should have this power outside of the regulation that the Legislature may provide for the control of the board of pardons, and in order to give my views concisely upon the section, that I think will cover both the original and the substitute which have been offered, I would prefer the following:

The governor, secretary of state, and attorney general, shall constitute a board of pardons, and shall have power to grant reprieves, limitations, and pardons for all offenses, excepting treason, etc.

You will find in the report that after the third line in that section that which follows is legislation, pure and simple, and of such a nature that the Legislature should have control of it, and they should have the power to change it when the necessities of our government may demand it. You will find, too, by further reference to the fortieth and thirty-first lines, that in case of conviction for treason, reports have to be made to the Legislature of what has been done. The sanction of the Legislature is given to the acts of the governor before the pardon, and for this to be the case, as the provision remains here, the Legislature must act upon the matter. Why not leave it to the Legislature to make all provisions for it to control the board of pardons? In answer to the complaint or objection offered to the secretary of state becoming one of the board of pardons, or a member of that board, it was stated that he was not supposed to know anything of the merits of the case. I call attention to the fact that in the eleventh section of this article which we have for consideration, the secretary of state is constituted governor in case of disability to the governor himself, and he would

be placed in the position of governor. Therefore, if this be voted down, I shall offer my suggestion as a substitute for the original motion, that the governor, secretary of state, and attorney general shall constitute a board of pardons under the simplest form in which we can put this section. It will relieve us of a great amount of legislation, a tendency which is added in most constitutions of states recently formed, because we have tended in that direction too much. I prefer that we leave some little to the Legislature.

On motion, the committee then rose and reported as follows:

The committee of the whole have had under consideration the legislative article, which they report as amended, and desire to have it placed on the Convention calendar for third reading.

Also report progress upon the article on executive.

On motion, the Convention then, at 5:15 o'clock p. m., adjourned.

FORTIETH DAY.

FRIDAY, April 12th, 1895.

The Convention was called to order at 10 o'clock a. m. President Smith in the chair.

Roll call showed a quorum present.

Prayer was offered by Rev. Geo. E. Jayne, pastor of the Second M. E. church.

Journal of the thirty-ninth day's session was read and approved.

The following petitions were presented asking that the question of woman's suffrage be submitted as a separate article to the vote of the people:

File No. 261, signed by J. Hegney and 46 others from Salt Lake, by Goodwin, of Salt Lake.

File No. 262, signed by G. A. Whitaker and 28 others from the board of labor

of Salt Lake City, by Goodwin, of Salt Lake.

File No. 263, signed by Mary Ramjue and 26 others from Wellington, by Howard, of Emery County, by request.

File No. 264, signed by Fred Yates and 101 others from Millville, by Maughan of Cache, by request.

File No. 265, signed by L. H. Outzen and 90 others from Richfield, by Brandley, of Sevier, by request.

File No. 266, signed by H. Hughes and 144 others from Spanish Fork, by Creer, of Utah.

File No. 267, signed by S. W. Sharp and 53 others from Provo, by Corfman, of Utah.

File No. 268, signed by W. W. Davis and 24 others from Carr Fork, by Squires, of Salt Lake.

File No. 269, signed by Mrs. J. Niven and 40 others from Murray, by Haynes, of Salt Lake.

File No. 270, signed by W. W. Smith and 32 others from Rockport, by Eldredge, of Summit.

File No. 271, signed by Thos. Bradley and 86 others from Hyrum, by Thoresen, from Cache, by request.

File No. 272, signed by Isaac C. Emery and 8 others from Center, by Stover, of Tooele.

File No. 273, signed by F. A. King and 37 others from Hooper, by Kiesel of Weber.

File No. 274, signed by Wm. Harcombe and 54 others from Ogden, by Kiesel, of Weber.

File No. 275, signed by R. G. McQuarrie and 20 others from Silver Reef, by Ivins, of Washington.

File No. 276, signed by F. L. Cushing and 49 others from Carr Fork, by Squires, of Salt Lake.

Ordered filed.

The following petitions were presented asking that an equal suffrage clause be placed in the Constitution:

File No. 277, signed by L. P. Oveson

and 114 others from Cleveland, by Howard, of Emery.

File No. 278, signed by George Harding and 237 others, by Wm. Lowe, of Box Elder.

File No. 279, from citizens of Brigham City in mass meeting assembled 150 favoring a clause be placed in the Constitution for woman suffrage, and forty against, 75 not voting, by Peters, of Box Elder.

File No. 280, signed by Geo. C. Murdock and 258 others from Beaver City, by Murdock, of Beaver.

File No. 281, signed by Henry E. Reddish and 203 others from Davis County, by Call, of Davis.

File No. 282, containing 1,010 names from Salt Lake City; 107 names from Deweyville; 23 names from Leeds; 163 names from Utah County; 285 names from Spring City; 290 names from Manti; 527 names from Salt Lake County, by Chidester, of Garfield.

Ordered filed.

Mr. Raleigh, of Salt Lake, presented File 283, signed by Geo. F. Goodwin and 47 others, asking that the question of prohibition be submitted as a separate article to a vote of the people.

Referred to committee on schedule, future amendments and miscellaneous.

The article on legislative was then taken up on third reading.

Sections 1, 2, 3, 4, 5, 6, 7, and 8 were read.

Mr. EICHNOR. Mr. President, I move to amend section 8, line 6, after the word "commissioner," by adding "school trustee."

Mr. CORAY. Mr. President, I would like to ask a question for information. Is the state commissioner supposed to be an officer of the State and if so, is it the intention to bar him out?

Mr. VAN HORNE. Mr. President, I should judge it would be a good thing to bar the commissioner of schools out of the Legislature. He is a salaried officer under the State. This says, "no person holding any office of profit or trust under the authority of the United

States or of this State," and I thought it was not necessary to put school trustees in and for that reason did not put it in.

Mr. THORESON. Will this bar municipal officers in cities of the third class being elected to the Legislature? If it does, it should be amended.

Mr. VAN HORNE. I think that would not bar officers under the authority of the State perhaps. That is a question for construction by the courts.

Mr. THORESON. Just as much so as school trustees?

Mr. VAN HORNE. I think they are not officers of the United States. He gets his certificate of election in a different way. A justice of the peace gets his certificate from the State at a general election. I do not think that comes under the authority of the State.

Mr. EICHNOR. I think every officer in the State of Utah holds an office under authority of this State—by virtue of the authority of the State of Utah, no matter whether it is directly or indirectly.

Mr. KIMBALL (Weber). Mr. President, I hope this amendment proposed by the gentleman from Salt Lake will not be adopted. If you follow out the doctrine announced by him, you will have to include here road supervisors, dog killers, and everybody else. Now, it has never been considered in any state that school trustees come within this prohibition. I venture to state, if you will look up all the constitutions in the United States, you will find that the exception stops with postmasters of the fourth class or postmasters whose salaries do not exceed four hundred dollars. If you follow out the logic you will never get through putting in amendments here.

Mr. EICHNOR. With the consent of my second, I will withdraw my amendment of the words "school trustee" and insert the words, "local officers."

The amendment was rejected.

Mr. ANDERSON. Mr. President, I

move as an amendment to this section that we strike out the words, "or of this State." I think there are so many officers of the State that should be eligible to the Legislature.

Mr. EVANS (Weber). Then you would permit the governor, would you, the secretary, or any other officer of the State to sit in the Legislature, or members of a city council, sheriffs, collectors, or anything else?

Mr. ANDERSON. Yes, if the people elected them.

The amendment was rejected.

Section 9 was read.

Mr. HART. Mr. President, it seems to me that the exception given in lines 6 and 7, namely, justices of the peace, comes within the objection made by Mr. Kimball, of Weber, to the amendment proposed sometime ago by Mr. Van Horne of Salt Lake. That exception seems to be upon the theory that "officers of the State" includes all officers, including local, precinct, and county officers. I move, therefore, Mr. President, that the words, "justice of the peace" be stricken out. I think the construction would then be as Mr. Kimball suggests, that "State officers" means officers of the State at large.

The question being taken on the amendment, the Convention divided, and by a vote of 33 ayes to 40 noes, the amendment was rejected.

Mr. HAMMOND. Mr. President, I am not in favor of this section, but it seems to be going through. These State officers that are to be supported by the taxpayers—I would like to see a provision that they should be freeholders.

The PRESIDENT. Will the gentleman make a motion? There is nothing before the house.

Mr. HAMMOND. If I could get a second, I would like to—

Mr. NEBEKER. I second the motion.
[Laughter.]

Mr. HAMMOND. Now, San Juan is square on the floor.

The PRESIDENT. We haven't any motion.

Mr. HAMMOND. The suggestion was seconded. I make a motion, sir, that all the State officers that are supported by the taxes of the people, that they themselves shall be taxpayers and freeholders. In a country where land is cheap as it is here, it seems to me that all these officers at least might have a piece of land, if it was not any larger than sufficient to bury them upon or in. I have seen a great deal of this in my day. Office holders crying loudest for office pay but a very small tax, and I would like this to be provided.

Mr. VAN HORNE. I would ask Mr. Hammond if he has contemplated the fact that we passed in the declaration or bill of rights a provision that no property qualification should ever be required to vote or hold office?

Mr. HAMMOND. Yes.

Mr. VAN HORNE. Then I arise to a point of order that that could only be—

Mr. HAMMOND. Could not that be reconsidered, sir?

Mr. VAN HORNE. I arise to the point of order that that could only be by a reconsideration of that article.

The PRESIDENT. The gentleman's point of order is well taken.

Mr. EVANS (Weber). I call Mr. Van Horne's attention to the fact that that article in the Constitution provides, "except as otherwise in this Constitution provided," so that the gentleman from San Juan would be right now, if he wanted to make a motion.

The PRESIDENT. The gentleman will present his amendment in writing and we will entertain it.

Mr. VAN HORNE. I would ask if the provision of property qualification was not thoroughly gone over in the article on elections and rights of suffrage?

Mr. EVANS (Weber). It was gone over, but there was an exception made that there should be no property quali-

fication, except as in this Constitution otherwise provided.

Mr. VAN HORNE. I ask about the elections and suffrage article. That did not go into that article.

Mr. EVANS (Weber). The other provision did, however.

Mr. KIMBALL (Weber). The gentleman's amendment does not pertain to section 8 at all.

Sections 10, 13, 14 and 15 were read.

Mr. CORAY. Mr. President, I move to strike out the word "smaller," in line 3, and substitute in place of it the word "less."

The amendment was rejected.

Sections 16, 17, 18, 19 and 20 were read.

Mr. BOYER. Mr. President, I move you to amend section 20 by striking out, in line two, the word "ninety," and insert in place thereof the words "sixty-five."

The amendment was rejected.

Mr. L. LARSON. Mr. President, I move that in line 3, section 20, the word "sixty" be stricken out and the word "fifty" inserted in lieu thereof.

The question being taken on the amendment, the Convention divided and by a vote of 38 ayes (noes not counted) the amendment was rejected.

Sections 21, 22 and 23 were read.

Mr. THORESON. Mr. President, I move to strike out the word "party," in the seventh line, and insert the word "person."

The amendment was rejected.

Section 24 was read.

Mr. THORESON. Mr. President, I would like to see this matter harmonized and for that reason I move that we strike out the word "person," in the first line of said section, and insert the word "party."

The amendment was rejected.

Sections 25, 26 and 27 were read.

Mr. SQUIRES. Mr. President, I move that a transposition be made in that section so that as amended it would read as follows:

Except general appropriation bills and bills for the codification and general revision of laws, no bills shall be passed containing more than one subject, which shall be clearly expressed in its title.

The amendment was agreed to.

Sections 28 and 30 were read.

Mr. VAN HORNE. I move that we pass section 31 until the end of the consideration of the other provisions of the article.

The motion was agreed to.

Sections 32 and 33 were read.

Mr. EICHNOR. Mr. President, I move to strike out section 33. It is a well known fact that the authorities of the United States have made war on lotteries, that it is the next thing to an impossibility to get a legislature to authorize the establishment of a lottery in the State of Utah. I know a number of states have that provision, but it is simply a dead letter. The United States would step in and punish every one connected with the affair. Not in the local matters, but as far as the mails are concerned. You could not use the mails for any purpose of that kind. I do not think that there is any danger that the State of Utah wants to establish lotteries, or authorize any one to establish a lottery.

Mr. BOWDLE. Mr. President, I am opposed to striking out that section. North Dakota adopted a constitution without any section pertaining to lotteries in it. I am informed by gentlemen who lived in the state at that time, that their first legislature was besieged during the whole of its time by the Louisiana lottery to try to get authority to operate in that state, notwithstanding the prohibition that is passed by the United States government, with reference to the use of the mails, and we do not want that trouble here. If we leave it in, it will be notice for them to keep hands off.

Mr. EICHNOR. Have you any idea that the Legislature of the State of

Utah would in any way be bamboozled into establishing a lottery?

Mr. BOWDLE. They might not be, but we can so easily prevent them being importuned to do it, let us take the opportunity and do it.

Mr. EICHNOR. In other words you believe in putting up a sign board?

Mr. BOWDLE. Yes, sir.

Mr. VAN HORNE. Mr. President, I hope that article will not go out. It is against the principle. I have heard in all my efforts to do anything with regard to this Constitution, "It is legislating in detail; it is limiting the power of the Legislature, and for that reason it is objectionable." But we know by common report that there were a million and a half dollars in the hands of men besieging the legislature of North Dakota to grant the franchise for a lottery. A great deal has been said about the necessity of our putting guards around the Legislature for their future action in matters that have not the magnitude that that would have. It seems to me that it would be well to leave in the Constitution a prohibition against granting a franchise that common consent of the country holds to be an immoral franchise and detrimental to the public good. I hope the section will not be stricken out.

Mr. EVANS (Weber). Mr. President, I am entirely opposed to the striking out of this section. There is no doubt but what if this section is stricken out there will be a combination of people who will importune our incoming Legislature for the purpose of securing a franchise to carry on lotteries and games of chance. I believe that such institutions are wrong in principle. I believe that we ought to put an inhibition upon the Legislature to permit a thing of this kind. My friend from Salt Lake says the Legislature cannot be bamboozled into granting such a franchise. I say let us make a prohibition in the Constitution so that they will not even consider the question at all. I

am opposed to the striking of it out and will vote against it.

Mr. HAMMOND. Let me ask the gentleman from Weber a question? Will this prohibit horse racing? I am very fond of horse racing. I never bet much on it, but I am fond of it.

Mr. EVANS (Weber). No; it will not according to the construction of the courts.

Mr. HAMMOND. Then I am satisfied.

Mr. VARIAN. Mr. President, and gentlemen, I hope this will not go out. We need just such a prohibition and the history of the times illustrates it. Many legislatures have attempted, even in the very teeth of the constitutional provision, to enact lottery schemes for the supposed benefit of the state. It is a prostitution of public functions that I do not think is legislation, either—a prohibition against a tendency of modern times, which is rapidly increasing.

The motion to strike out was rejected.

Section 34 was read.

The SECRETARY. There was a portion of the minority report adopted, which bears the name of section 4.

Mr. RICHARDS. Mr. President, when that section was adopted it was expressly stated that it followed the section that has just been read. That part of the section that has just been read is 34 in the printed article, but it will not be 34 in the article as revised, because other sections have been stricken out.

Section 35 was then read as follows:

The Legislature shall have no power to grant or to authorize any county or municipality authority to grant any extra compensation, fee, or allowance to any public officer, agent, servant, or contractor, after service has been rendered, or a contract has been entered into and performed in whole or in part, nor pay nor authorize the payment of any claim hereafter created against the State, or any county or municipality of the State, under any agreement or contract made without authority of law.

Mr. KIMBALL (Weber). Mr. President, I move to amend the article by striking out that section.

Mr. EVANS (Weber). Mr. President, I was not in the committee of the whole the other day when that section was adopted and I want to make a remark or two upon it. I cannot conceive why it is that any gentleman would oppose that section. There is certainly nothing in it of a political nature to begin with. The principle formulated in the section is one which ought to prevail in every well regulated government. It does not mean to prohibit the State from making a proper contract with any individual. It simply means to prohibit a contractor, after he has entered into a contract with the State or with any municipality, from applying to the Legislature or the city council for extra compensation after he has entered into his contract. The history of the United States is replete with just such transactions as would occur in the new State were this provision not to prevail. We all know how ready men are to enter into contracts to perform public work. We all know how it is that they constantly importune the officers and the authority of the government for the purpose of securing the work, and then in the absence of any restriction in the law or in the Constitution, how ready they are to apply again the second time for extra compensation for that work which they had originally contracted to do for a designated price. Are we here just entering upon the threshold of a new State going to leave the door wide open for contractors, who in the first instance seek with alacrity contracts for the benefit of the State and of themselves and then turn around and say, "We desire extra compensation over and above that which we agreed in the first instance?" Gentlemen, you know how easy it is; take large improvements, take the building of a capitol, take the construction of a school building, of county court houses, or of any public building, men contract to put them up for a certain designated price. Men

give their bids for that purpose. Are we to leave the door open and say now that when they have done that they can apply to the representatives of the people and receive compensation over and above that which they originally agreed to perform the work for?

And there is another mischief that is suggested by gentlemen here upon the right. If this thing be left open in the manner in which some gentlemen upon this floor intend to leave it, the contractor or bidder will bid a low figure in the first instance in the hope of getting the contract and thereby, after it is secured, in the further and additional hope and belief that he can apply to the representatives of the people and increase the compensation which he originally contracted to perform the work for. I am somewhat surprised at the gentleman from Weber. I do not know why he should want to strike this out. He has had some experience in the city council, as city attorney, and knows the mischief that results from a want of just such restrictions as this section proposes. We have had instances in Ogden where people have performed public work upon the sewers and where they have received warrants for their compensation, and who have applied to the city council after they had sold their warrants at a discount to make up the additional amount so that the warrants might be of their face value. The city council has performed work of this kind. Is it right that it should do it? Shall we leave the door entirely open so that when a man in the first instance secures his contract, that he can come in under some false pretense for the purpose of reaching his hand in the public treasury and replenishing his own pocket by saying to the people, "I was mistaken when I made the first contract, I did not get enough; I want another whack at the public treasury?" These things have been too frequent in the history of our country. And gentlemen, it is not a political ques-

tion. Let us put a quietus upon that method, writing in the Constitution which we are here forming, so that that thing shall forever be prohibited, and when men enter into their contracts, let them be careful in the first instance.

Mr. CANNON. I would like to ask, in case some work was under construction—the building of a bridge, we will say, or something of that character, and they had designed to make it with certain kind of footings, for instance, and afterwards the nature of the soil was proved to be such that it would not be advisable so to do. Under this clause could the contractor receive extra compensation for work which was really a benefit or not, or would he not be prohibited from doing that?

Mr. EVANS (Weber). I would say that the shrewd contractor in contracting with the State would classify his work. He would make certain classifications, so that if the surface of the ground were softer than that which underlies it, if he came into hardpan, or cement, there would be a classification for which he would receive extra compensation, but this section that I object to goes beyond all that. It permits people entering into these contracts to apply again for extra compensation.

Mr. CANNON. The gentleman does not comprehend my meaning.

It would be simply this: Not for a difference of material which the contractor might have to get, but in case it was necessary to change for any reason the plan, would that be permitted even if it were for the public good, by this clause? If this clause goes in, would that permit a change where it was apparent and for the public good?

Mr. EVANS (Weber). If I understand you right, you mean that where something would be encountered which could not be discovered at the time of making the contract?

Mr. CANNON. Yes, sir.

Mr. EVANS (Weber). I do not understand that there is anything in this section that would preclude a contract being made under circumstances of that kind, but it is to preclude this extra compensation which people are habitually applying for.

Mr. SQUIRES. I would like to ask the gentleman one question. In the case that you referred to, where a contract was taken for the city of Ogden, and men had received their pay in warrants, which, in order to be converted into money, had to be sold at a discount, do you think that would be perfectly fair treatment to the contractor? He contracts for a cash price and is paid in a kind of paper which requires him to discount perhaps ten per cent, would not it be right that that amount should be made good?

Mr. EVANS (Weber). Certainly he should have his money. He should have his contract price, but he should not accept city warrants in lieu of money and then apply to the city council again and receive an additional number of warrants. If the additional amount be five thousand dollars over and above the contracts, it cost the city five thousand dollars more than the original contract and that is the thing I am objecting to. Of course, I believe a man should be paid his money, but I should say he should be paid no more.

Mr. KIMBALL (Weber). If the contract was for so much cash at the time payment was made, they paid in city warrants that were only worth eighty per cent in the market, the city council, on application of the contractor, issued warrants to the amount of twenty per cent more than the face of the contract price, still the contractor would only get his contract price, wouldn't he?

Mr. EVANS (Weber). The city had to pay five thousand dollars additional, did it not?

Mr. KIMBALL (Weber). No, sir; it did not.

Mr. EVANS (Weber). Whatever the amount was?

Mr. KIMBALL (Weber). When the warrants became payable it may cost the city five thousand dollars more, but at the time the payment was made they only paid the contractor ten per cent or twenty per cent less than his contract price.

Mr. EVANS (Weber). No, I say right now, and I have said it right along, that the action of the city council was unlawful, unjust, and ought not to have been taken.

Mr. GOODWIN. I want to ask Mr. Evans how would this affect any business of the city council? This has relation entirely to the Legislature.

Mr. EVANS (Weber). It expressly provides for it. It has an expressed limitation upon the cities and the counties and the Legislature shall not authorize it. These municipalities are creatures of the Legislature, and unless they receive their power from the Legislature they cannot act, and this is a limitation upon them. It seems to me that we have had lessons enough right in our own midst. I do not care to specify them. I only specify one instance—to teach us a lesson in this respect and to put in this prohibition.

Mr. SQUIRES. Mr. President, I have in mind a case in this very county where the county collector needed a thousand dollars' worth of two cent stamped envelopes in order to transact properly the business of his department. He called upon the county court for an appropriation of these stamps. The envelopes were ordered at Washington. When they came here to the postmaster the postmaster declined to deliver them without the cash. The county had no cash to pay, and before they could secure those stamped envelopes, which were worth eleven hundred dollars, I think, they were obliged to give a warrant for eleven hundred and fifty dollars to get the cash to pay the postmaster, who would not accept any warrants, of

course. The year following the county assessor here went to the county court for an appropriation for stamps and they told him to go ahead and order the stamps and they would give him a warrant. He did so, and had to discount the warrant. He had to pay cash for the stamps and had to discount the warrant ten per cent. in order to get his money back. Now, I do not believe we should put any such burden as that upon an official who is performing the public duties of the county. That is the condition of this county to-day. The county officers need the facilities for transacting their business. The county court has no money. They have to pay cash for those articles and the only way they can remunerate themselves is by county warrants. County warrants are liable to run for three years, and of course they are subject to a discount, and I do not believe it is right to expect an official to expend his own money and then accept warrants at ten per cent discount in payment thereof.

Mr. EVANS (Weber). Should a county or municipality make contracts when they have not any money to pay for them?

Mr. SQUIRES. I am referring to the actual necessities of this county. It is necessary that these sums should be procured here in order to assess and collect the taxes of the county so that the county may go on with its business.

Mr. RICHARDS. What is there in this section that would prevent the county court in a transaction of that kind from appropriating the actual value of the envelopes?

Mr. SQUIRES. Nothing, except that they did not have the cash and had to pay in warrants.

Mr. RICHARDS. What was the objection then to issuing sufficient warrants to pay for the stamps?

Mr. SQUIRES. That question was answered by Mr. Evans himself. He can answer you.

Mr. RICHARDS. I see nothing in this section which would prevent it, Mr. President.

Mr. SQUIRES. I will answer the gentleman's question. When Mr. Lynch, this county assessor of ours, having accepted, as he had to, a warrant in payment of the eighty odd dollars cash that he expended for postage stamps, comes to the county court and asks for an appropriation sufficient to pay him the discount which he had to make on his warrants, he would be prohibited under this act from receiving it from the county court.

Mr. RICHARDS. My answer to that would be this: that Mr. Lynch ought not to have accepted the eighty dollars in payment.

Mr. SQUIRES. No, he ought to wait three years for it.

Mr. RICHARDS. He ought to have accepted what would be equivalent to it.

Mr. VAN HORNE. Mr. President, it is possible that this provision might be amended so as to have no objectionable features. I do not know about that. As it is, it seems to me, it has some very objectionable features. In the first place, it seems to me, that it is objectionable in the line of an objection that has frequently been made here, that it is unnecessarily limiting the power of the Legislature. It is legislation as to what they shall or shall not do. That is a minor objection, however. If that is legislation—where there is any doubt about it, it seems to me clearly that it should not go into the Constitution. It does seem to me that there is a doubt about this provision, and a very grave doubt. For instance, it does not allow the appropriation to be made for an extra contract service. If a man has a contract and performs a service outside of the contract, he has not even an implied right to ask that the value of his service be given to him. Another thing is, that if he is a contractor, and it becomes necessary to do anything that is

for the public good on a sudden emergency of any kind, if he performed that service and expended his own means and time in doing it, under this provision he could not even present a claim to the State or to the municipality for the service he had rendered.

Mr. EVANS (Weber). Do you say that a contractor should be the judge of the expediency of that question?

Mr. VAN HORNE. I say that in cases of emergency he should be the judge to the extent, not of compelling the State or city to pay, but to render the service if necessary, and say, "Here is my service rendered, you can look at it, if it is worth anything, give it to me."

Mr. EVANS (Weber). Do not these contractors usually find it expedient to say something of that kind in order to get extra compensation?

Mr. VAN HORNE. I do not know. The gentleman may have had more experience with contractors than I have, and for that reason he may insist upon it being put in. I do not know whether contractors usually do anything of the sort or not, but I was simply stating the proposition that a service may be justly and properly rendered and that this provision prevents the recompense for an extra contractual service. Again, with regard to the compensation, fee, or allowance to officers. I do not know that such a case would happen, it may never happen, but suppose an officer, who is an officer of the State, for the performance of certain duties by some emergency, for some reason or other is called upon to perform a duty for the State that is for the benefit in his judgment of the State and of the people of the State. He performs that duty in good faith. To be sure, gentlemen, he has no right to say what that is worth, but here you say you are sure that we should say that the Legislature should never say it was worth something to the State and give him a recompense for it. Again, we will take the addi-

tional case, suppose a case of invasion or rebellion in this State, suppose the militia was out and it became necessary for them in the support of their movements to take some cattle that were on the range and kill them for the support of the soldiers of the commonwealth. They did not find the owner of the cattle at the time; he found out afterwards that the State authorities had taken his property in that way and he presented a claim to the State for them; would it be just to say, not that he should fix the value of everything that was taken or damage that was done to them or the benefit to the State, but that he should receive no compensation whatever for the damage that was done to him by the State officials acting without authority of law and without contract? Again, take the case of a citizen—

Mr. EVANS (Weber). I would like to know what analogy you find between the illustration you make and the section which we are now considering—that is for service rendered or contract to be entered into, or performed, in whole or in part. That is the subject matter of the section. You are giving a case of necessity—a case of emergency where no contract is made.

Mr. VAN HORNE. Must your contract be an express contract?

Mr. EVANS (Weber). No, there would be no contract at all in the case which you have mentioned.

Mr. VAN HORNE. Take another case. Suppose a man performs a duty to the commonwealth as an officer of the State. We will presume a case here, that in the act of a fire department in this city—the occupants of this building having the public records and so on, one of them would find that it was necessary to expend money, and that by the expenditure of money by himself, he would perform a service to the State in saving the records, and he assumed that "this is a patriotic duty to save them if I can. I will go to work

and expend this money. I will be a guaranty to the men who work here under my direction that I will pay them for it," and he does the work and pays the men. Ought we to say he should not present any claim at all for the matter, because he is an officer of the State? It seems to me that when there are these doubts about the propriety of this thing, either the section should be amended, so as to cover the exceptional cases, or else it should not be passed.

Mr. THORESON. I would like to ask a question. If you construe this section so as to prohibit a city or a county or even a state from paying any just debt?

Mr. VAN HORNE. I think that it might be so construed; yes, sir; very readily.

Mr. THORESON. I think not; it provides here, "without authority of law." Would that prohibit the Legislature from paying that claim?

Mr. VAN HORNE. It seems to me that if there was what you would call an implied contract for the service and there was no express authority of law for his having performed the service, that the contract would be based upon the absence of the authority and that it would be under those circumstances a contract without authority of law—the very point I was getting at, I thought stating the matter clearly. If I am mistaken about that—if the gentlemen are sure that the courts would not construe it in such a fashion as that, there might not be the same objection to the section.

Mr. RICHARDS. Mr. President, it seems to me that there is a grave misapprehension on the part of some members in regard to the scope of this section and I desire to make some remarks in addition to what I said yesterday on this subject. The illustrations given by the chairman of the committee convince me that there is a misapprehension in relation to it. For instance, the last illustration that he made where a city

officer guarantees to his subordinates that he will pay them for certain services, and he says that under this, as I understand him, that officer could make no claim upon the city. I do not so understand it. That officer has made, as I understand his illustration—and if I am mistaken the gentleman will correct me—that officer had made no contract with the city. Therefore, he is asking for no extra compensation in addition to any contract that he made with the city. He simply comes in and asks the city to pay for service that has been rendered for the city.

Mr. VAN HORNE. Will the gentleman allow me to correct him? I stated the point exactly that, that it says no extra compensation, fee, or allowance, to any public officer, agent, servant, or contractor, after service has been rendered. Now, the objection that I have to that is, that it does not define the service must be within the ordinary scope of his duties; that something outside of that, if it was done, he would make no claim for it, or no compensation could be granted.

Mr. RICHARDS. I do not understand the matter any differently now from what I did before. I still think that the chairman of the committee is under a misapprehension. I understand that this relates only to extra compensation that has grown out of a contract. Now, the very case that the gentleman suggests contemplates no contract. That is the point I desire to make, and that is the distinction all the way through. In the militia illustration, there was no contract there, not even an implied contract. If an officer of the State goes out and takes the property of an individual, is there any implied contract in that? It is in the nature of a tort. It is not a matter of contract whatever. Therefore, it has no application. If a man makes a contract and then in the course of this contract it is found necessary to change the work that is to be done and the parties

modify that contract, that could be done under the provisions of this section, beyond any question, but this is the thing that cannot be done, under this section, and the thing that ought not to be done, and the very thing that I am informed has been done more than once in this city and in this county and in other parts of this Territory. Men have entered into contracts, have made their bids in competition with other men, who are in the same business; by bidding below these other men they have obtained the contract and then they have asked for an additional compensation. For what? For filling that contract. This provision says they cannot do it, but if they render extra service to the city or the county or the State, nothing in this section prevents them from having pay for that extra service.

Mr. EVANS (Weber). It prevents them, after the service has been performed.

Mr. RICHARDS. It prevents them from making a contract and then, under the pretense of filling that contract, coming in afterwards and saying, "I have incurred certain additional expense and I want to be paid that." This is what devolves upon them under such circumstances. In the first place the duty devolves upon them to fulfill the contract that they may have made for the contract price. And if they propose to vary that contract, to change the work that is to be done, to increase the expense to the public, then the duty devolves upon them to change that contract or modify it to an extent that they will be able to recover compensation for it. Now, it seems to me, that that is absolutely just and right. I do not see how any man on this floor can object to a proposition of that kind. And not one of the illustrations presented here is in point, as I understand it. Take, for instance, the public officer. As the gentleman says, a public officer is performing certain duties and he has

a certain salary, but an emergency arises and he is required to perform other duties.

Now, if the duty that he has to perform is occasioned by or is in the line of the office or duty of the office, that he is undertaking, then I say that man should perform that duty, because he has undertaken to do it and he should receive no extra compensation for it, because when he took that office, he took it with the duties and the burdens as well as with the honors and emoluments attaching to it, and if any thing should happen in the regular administration of the duties of his office that would lessen the burdens of that office could the State come back on him and say, "We will decrease your salary in proportion to the decrease of labor?" No. Then, if the legitimate services and duty that he had performed in the office are increased, he takes that burden as I have said before, as he takes the honors and emoluments; but suppose an emergency arises and he has performed duties outside of his office, is there anything that prevents him from going and asking compensation for it? No, because he has made no contract to perform that duty or do that work. He has contracted to perform the duties of his office for a certain sum, and this constitutional provision would compel him to abide by his contract, but when he went outside and did other duties, the State would be liable for it and that would be proper, just as in the case of the contractor, where the man had made the contract, he should be compelled to fill the contract according to his agreement and without additional compensation, but if a variance of the contract is made between the parties—if a change occurs by which it cost him more, then that would be a modification of the contract and on that he could recover.

So, gentlemen, I cannot see any possible injury that could happen by reason of the adoption of this section, but

I can see a great good that would result from it. I can see how legislatures, how city councils, county courts, executive officers, men who have public work to do, men who advertise for public work, can be protected and how the State and the municipalities can be protected and prevented from the perpetration of frauds by reason of men coming in and bidding below what they can do the work for in the hope that after it is done they can come forward and get a bonus. Whenever that is done, then the advantage of public competition is absolutely denied and done away with. Everybody knows that if bids are out here to-day for a certain public work to be performed for this city, and men could come in and make their bids honestly, the lowest responsible bidder presumably will have the work to do and he should do it for the price he agrees to do it for.

Mr. JAMES. May I ask Mr. Richards a question? I have been trying ever since you introduced the amendment yesterday to get the correct scope of that provision and understand it, and if I understand it correctly, as I said yesterday and as you stated, I should favor it. I want to ask this question: we have a building that we are in at the present time. There was a contract for its erection at the time I was a member of the city council. The contract with the builders of this building was three hundred and seventy or three hundred and seventy-five thousand dollars, I do not remember which. The building was finally completed at a cost to this city of about eight hundred thousand dollars. Now, I want to know if your provision is one that is intended to protect the people from such an additional cost as was put upon this building, over what was intended should be put upon it at the beginning?

Mr. RICHARDS. Yes, sir; if this building was built on the same plan that was originally proposed, it is to prevent that very thing. That is ex-

actly what it is to prevent. It is to prevent a man from coming in and making a bid for any public work, I do not care what it is, for less than he can afford to do it for, in order that he may get the work, and then after he has done it, if he has friends enough in the power that makes the appropriation, no matter whether it be a city council, a county court, or a legislature—to prevent that man from taking the contract for less than he can do it for, and then afterwards come in and get a bonus, and get paid and remunerated for what he has done and for as much more as his friends may see fit to give him. It is to place these matters in such a shape that when we have competition for public work it will be honest competition; that is what it is for. That when a man bids on any public work, no matter what it may be, that he may know that if he makes an honest bid, he will stand on an equal footing with every other bidder, and if a man comes in and underbids him, and agrees to perform that work and enters into a contract to do it for less than it costs, that man will suffer the loss and not the public. Now, I am putting it only on the charitable side. I am not assuming that there is going to be any jobbery or any intention of jobbery, but if there is, this is intended to cut it off. I want to tell you that right now. It is to prevent any possibility of jobbery of any kind. That is the purpose of this amendment, but I do not understand that there is one word or one syllable in this section that would prevent any man from recovering an honest compensation for any work that he might do for the public. That is, assuming, of course, that he did it under proper authority. I do not know that this would authorize a man to go and volunteer to do certain things without any authority to do them, but any work that is done for the public by proper authority can be compensated under this article. And yet, when a man makes a contract,

he has got to stand by it, whether he is a public officer or a private contractor.

Mr. IVINS. Mr. President, there appears to me from the arguments, particularly those of the gentleman from Salt Lake, Mr. Van Horne, that there is a misapprehension as to the intent of this proposed amendment. It seems to me further from the reply that the gentleman who just spoke made to Mr. James' question. Now, I do not understand that if, under the contract by which this building was constructed, there should have been a change in its plans and specifications by which a greater outlay became necessary, that the city or county would be debarred from meeting that extra expense, but if the building was contracted for and built according to the plans and specifications under which the contract was made and then there was a deficit, the contractor himself would meet it. It is not intended to cover any one of the different points to which the gentleman from Salt Lake, Mr. Van Horne, referred in his argument. His hypothesis was not properly based at all. Extra compensation will always be done to the State and to the city, and there is nothing in this provision that would prevent the compensation for that extra labor that would be necessary. It simply means this, that when men contract to do a certain piece of work, if they do it according to the plans and specifications, they will be paid just what the contract provides for and nothing more nor less. But if in the course of construction of that labor, as was referred to by the gentleman from Piute—if in constructing a bridge under contract, it became evident before the bridge was completed that there must be a change in the plans and specifications, and a different kind of a bridge was to be constructed, there would be nothing in this provision that would prevent payment of an additional sum to the contractor, but he must first have that plan—that extra expense which would be

necessary, laid before the same body that authorized the original contract, and have the change approved by them and not be permitted to go on and make those changes upon his own responsibility or his own account. Now, that is the way I understand this question. If I am wrong, I should like to be corrected, because, as I understand it, it seems to me to be a very necessary provision to go into this Constitution. I do not believe it is right to leave it open for anybody, whether it be municipal, county, or State, after having contracted a certain piece of work at a certain price, to pay any more than that contract price, unless there shall have been an additional expense incurred because of a change in the plans and specifications. I think that is all it means, and I think that the section should go into the Constitution.

Mr. MORRIS. Mr. President, I found in my experience there are two sides to a question at all times. I have no objection in regard to contracts—being a contractor all my life—whenever a contract is made to carry that contract through. If there is any change made, there is generally a proviso made for the change and a new understanding entered into. There may be instances where they cannot meet to make them. In that instance then the contractor will use his best judgment for the benefit of those who are employing him, but the objections that I have are in the kind of payments. I had a contract on this very building and I received forty-eight thousand dollars in scrip where it ought to be cash down, and we made a protest against that kind of pay, for the contract was cash, and they say, "We cannot help it; you cannot force it. You can throw the job up if you are a mind to, but we will build it at your expense." We could go to a lawsuit with them, but we had no protection as contractors, for the kind of pay that they were to pay us, hence, I want something on that side of the question.

We have come here to form a Constitution, and protection, not only for the cities and counties and State, but we come here to make a protection for the workingman—the contractors, the farmers, and all that are interested in their deals and transactions with the State, city, or county. I had the same experience again on a contract on this sewer. Most of you living in this city know when the city failed they had not a cent in the treasury; they demanded us to go on with the contract, for we had made a contract for that, but the kind of pay—that was out of the question, and I believe that there should be some protection for the workingman and contractors and others, as well as protection for the State, city, and county.

Mr. RALEIGH. I would like to ask Mr. Morris a question. Was there any thing requiring you to go on and fill your contract after the city had violated it on their part? If they did not pay you according to the conditions of the contract, were you under any obligation to go on?

Mr. MORRIS. Yes, according to the advice of legal men, we thought we had better go on and complete our contract and then bring suit against the city.

Mr. RALEIGH. But they were also under obligations to fulfill their part of the contract too?

Mr. MORRIS. Yes, but they were the biggest and the strongest and we were the weakest.

Mr. VARIAN. Mr. President, since the motion is to strike out the entire section, the effect of that motion will be, if not carried, to preclude any amendments to the section. It will then, be the judgment of the house that it stand as it is. I desire to offer an amendment at the end of the section to meet a suggestion that occurs to me relative to public officers. Particularly I have in mind officers who are entrusted with the execution of the

criminal law. Take a sheriff for instance, he might be called upon to pursue a felon out of the State where the trail was warm, as you might say. He might be put to the expenditure of a great deal of money, as well as time in following a criminal across one or more states. In order to make it clear that under such circumstances the Legislature shall have the power to reimburse him, I offer this amendment:

Provided this section shall not apply to claims incurred by public officers in the execution of the laws of the State.

If that should be amended in that way, I confess I do not see any exception to the section.

Mr. RICHARDS. I accept the amendment.

Mr. VARIAN. The illustration made in relation to the militia, it seems to me does not apply, nor does it fairly illustrate the purpose and design of this section as I read it. The executive would only have the authority to call out the militia in a case authorized by law. Of necessity the law would authorize, either expressly or by implication as a necessary incident to the action of the militia under the authority of the executive acting by law, to make all necessary contracts for the support of that body while in the field or while in the execution of its duties. I agree with the gentleman, my colleague from Salt Lake (Mr. Richards), that there ought to be something like this in this Constitution.

Mr. BUTTON. If your amendment came after "part", on the 7th line, would not it cover just what it does now?

Mr. VARIAN. I do not desire to strike out the clause prohibiting allowance of claims unauthorized by law as a general proposition. The Legislature may come in and make a provision for an unauthorized claim and I do not think that that is good public policy. I believe in that prohibition. I believe in it as far as at present advised

and I submit the amendment that I offered at the end of the section.

Mr. ALLEN. Mr. President, there is no doubt that this in some instances would prove a benefit. In others it would be a defect. In the question I brought up yesterday—the question was asked by Mr. Richards, and also the gentleman from Washington this morning referred to it, take these outside counties where there are no railroads, mail runs once or twice a week, and there is two or three hundred miles long—say 150 miles at any rate, and it is necessary to do some road work and there is a contract let. The county court know nothing about that. They will take likely the word of the supervisor or send some man to investigate. Then they draw up this contract to the best of their judgment. The man takes the contract to do the work. When he gets the work partly done, he finds that by putting fifty or a hundred dollars' worth more of work on that job it would be a good job, and without it it would not. Now, they say, "Well, you must go before the county court and get your contract modified;" these points cannot all be provided for in a contract, because you do not know what it is in the beginning. The man says to himself, "It will take me at least three weeks and a week's time of my own labor to see these men, get them together, and get a new contract," which is the case. Now, the county court would be obliged to get together to consider this matter and you can reckon up the cost of that court getting together, and it would cost from fifty to a hundred dollars to consider this question. Well, the man will say to himself, "I do not care, I will do as I have agreed to do and if the job is no good, why, it is nothing to me." Or, if he takes the other course, it will cost as much to get the county court together as it would to perform the labor and render a bill thereafter, and in that instance it

would work a hardship, and it might be in the fall of the year; whereas, putting it off to get this contract modified, the job would have to lay over another season. Many cases of this kind have come up.

Mr. THORESON. I would like to ask the gentleman a question. You would infer at least that road supervisors in certain counties are allowed to make contracts for the county without the authority of county courts is that a fact?

Mr. ALLEN. No, sir; I said the county court will talk first with the supervisor as to what kind of a bridge will be necessary, therefore, they would be acting honestly on his word.

Mr. THORESON. Wouldn't they then authorize him to go ahead and do the work?

Mr. ALLEN. The contractor would have the job. In order to get the contract modified, he would have to see the court and get them together.

Mr. RICHARDS. Let me ask you a question. Now, it seems to me that the gentleman has a misapprehension of this matter or else I have. Now, in the very case the gentleman illustrates, as to the case of the bridge, I understand the proposition to be that the contractor, instead of building the bridge the way he contracted to build it, becomes satisfied that the benefit of the county requires that the bridge should be constructed in a different manner and he goes on and constructs it in that manner and then the question is if he did that, whether he could be paid under this constitutional provision, is that right?

Mr. ALLEN. The way I understood you, he was not to be paid for that, unless he got the contract modified.

Mr. RICHARDS. I will state it again. The man enters into a contract to build a bridge, in a certain way. Now, at a certain time in the progress of the work he comes to the conclusion that it would be for the benefit of the county to

change the manner of constructing that bridge and make a different kind of a bridge and he constructed it accordingly. Now, then, the question that you asked or as I understood the question to be, was whether, under this constitutional provision, the county court could accept that and pay him for it. Is that the point?

Mr. ALLEN. I understand from this that they could not pay him if he did the work before he changed the contract, and I understood you to so fix it.

Mr. RICHARDS. No, that is where you misapprehend my statement. I say this, that if the man made a contract to build the bridge in a certain way and then he afterwards built another kind of a bridge, it would be optional with the county court whether they accepted the bridge at all or not, because he has not filled his contract, but the county court would have it in their power probably to accept of the bridge that he did build, if they were satisfied that the good of the county required that kind of a bridge, or that change, that I believe they would have power to do.

Mr. ALLEN. They could accept the bridge, but they could not pay him?

Mr. RICHARDS. Yes, sir; if they did accept the bridge they could pay him for it, because he is not asking an extra compensation for building the kind of a bridge he contracted to build. He is building another kind of bridge and he is asking pay for it.

Mr. ALLEN. I will ask you a question. Provided he built the same kind of a bridge, but put a little additional labor to it—a little additional expense then, what would be the result?

Mr. RICHARDS. If he enters into a contract to build a certain bridge and he builds that bridge, he would have no claim for any additional compensation, but if he built another kind of a bridge, then it is optional with the county court whether they accept that as fulfillment of his contract or not.

Mr. ALLEN. That is a very small point, but suppose, as I said, that he found it necessary to put more labor on the bridge, in order to make it what they would desire, and what it ought to be, and what he knew it ought to be, could he get paid for that extra work, without having his contract remodelled?

Mr. RICHARDS. My opinion is that, if the county were satisfied that that change in the plan of the bridge was necessary and that the extra work that he performed was necessary to the county, that they could ratify that contract; that is, they could make it the same as if they had modified the contract before he did the work, so far as that is concerned.

Mr. ALLEN. All the gentlemen that spoke here this morning have talked right to the reverse of what you now say.

Mr. RICHARDS. I have not understood it so. As I said before, and I would like to reiterate what my position is on this matter, that if a person makes a contract to do a certain thing—

Mr. THURMAN. Mr. President, I arise for information. I would like to know where is that bridge?

Mr. ALLEN. I will say, Mr. Thurman, bridges of this kind and questions of this kind have come up that I know of and have had deals with and no doubt will come up in the future.

Mr. EVANS (Weber). I will answer Mr. Thurman by saying that the bridge is the section proposed which, if adopted, will carry us safely over.

Mr. EICHNOR. Mr. President, if the effect of this section will be as Mr. Richards, of Salt Lake, stated, a few minutes ago, it is absolutely worthless; that is just the position. If they can whip the devil around the stump by saying, "We will accept it and can pay the contractors," what is the use of legislating and filling up the Constitution with a provision of this kind?

Mr. CANNON. Mr. President, I see

nothing in this section of a partisan character. The only point I was opposed to is the fact that under some circumstances, I thought it would be for the public good to modify a contract and with a desire to correct that, I desire to propose an amendment after the word "part," in line 7, as follows:

Unless amended contract be entered into after similar competition to that under which the original contract was awarded, the condition of the work at the time such amended contract becomes necessary being duly considered.

I am informed, however, by the gentleman from Salt Lake that this right will be given without any such clause being introduced, and if that be true, I certainly favor the proposition as it stands as amended by Mr. Varian. I think that it is good to have a limitation upon contracts and to prevent, if possible, public money being expended by men and extra claims to come in afterwards.

The amendment offered by Mr. Varian was agreed to.

Mr. EVANS (Weber). I just want to ask Mr. Varian a question. Do you not think that your amendment would permit officers to come in and receive extra fees and compensation?

Mr. VARIAN. No.

Mr. EVANS (Weber). And do you think that such an instance as you give would be an extra fee or compensation under this provision, as it now stands?

Mr. VARIAN. I do not think, Mr. President, it applies at all to the case of fees for officers.

Mr. VAN HORNE. Mr. President, I think it is proper to get a section into the best condition possible before we take a vote on striking it out, and I have an amendment to propose for the lines reading down to line 7:

The Legislature shall have no power to grant or to authorize any county or municipal authority to grant any extra compensation, fee, or allowance, to any public officer, agent or servant, for the performance of the duties of his office,

or employment, after such duty has been performed, nor to any contractor, after the contract has been entered into, or performed in whole or in part.

It is a substitute for that part of the section.

The substitute was rejected.

The roll being called on the motion to strike out the section, the result was as follows:

AYES—37.

Allen	Kimball, Weber
Brandley	Lambert
Button	Larsen, L.
Chidester	Larsen, C. P.
Clark	Lund
Cushing	Miller
Eichnor	Morris
Eldredge	Moritz
Emery	Page
Gibbs	Peterson, Grand
Goodwin	Peterson, Sanpete
Green	Shurtliff
Haynes	Squires
Heybourne	Stover
Hill	Strevel
Hyde	Symons
Jolley	Van Horne
Keith	Williams.
Kearns	

NOES—57.

Adams	Lewis
Anderson	Lowe, Wm.
Barnes	Lowe, Peter
Bowdle	Low, Cache
Boyer	Maeser
Buys	Maloney
Call	Maughan
Cannon	McFarland
Christianson	Murdock, Beaver
Coray	Murdock, Summit
Corfman	Partridge
Creer	Peters
Cunningham	Raleigh
Engberg	Richards
Evans, Weber	Roberts
Evans, Utah	Robertson
Farr	Robinson, Kane
Francis	Robison, Wayne
Hammond	Ryan
Halliday	Sharp

Hart	Spencer
Howard	Thompson
Hughes	Thoreson
Ivins	Thurman
James	Varian
Johnson	Warrum
Kiesel	Wells
Kimball, Salt Lake	Whitney.
Lemmon	

ABSENT—12.

Crane	Pierce
Driver	Preston
Kerr	Ricks
Mackintosh	Snow
Murdock, Wasatch	Thatcher
Nebeker	Thorne.

The president declared the motion lost.

On motion, the Convention then took a recess until 2 o'clock p. m.

AFTERNOON SESSION.

Mr. VARIAN. Mr. President, I desire to offer an additional section to this article, which would be section 36. The same was read as follows:

Section 36. The Legislature shall not authorize the State, nor any county, city, township, district, or other political subdivision of the State, to lend its credit or subscribe stock or bonds in aid of any railroad, telegraph, or other private, individual, or corporate enterprise, or undertaking.

Mr. RICHARDS. Mr. President, I offer as a substitute for that the following:

No appropriation shall be made by this State nor any political subdivision thereof to any person, corporation, association, or institution, not under the absolute control of the State, nor shall the State or any political subdivision thereof give, lend or pledge its credit for any such person, corporation, association, or institution.

I move the adoption of that section.

Mr. VARIAN. Mr. President, there is a wide difference between the two propositions, and as I apprehend the substitute offered by my friend from Salt Lake County is intended to revive the matter that was supposed to be disposed of yesterday, I do not care to enter upon

that discussion, because the discussion on yesterday was profitless, and certainly whatever good purpose may have been subserved by it, none can be subserved by prolonging that discussion. I simply invite the attention of the Convention to the manifest design and purpose of this substitute, following which I shall point out wherein I think the section offered by myself is proper. The purpose of my section is to prohibit the lending of the credit in any way for the furtherance of such enterprises as are indicated. It is not intended to and does not directly or indirectly disturb the general power of the Legislature concerning general legislation of the State. It simply provides that the State shall not and no county or other political subdivision of the State shall subscribe to stock or bonds or lend its credit in aid of telegraph, railroad, or other enterprises of like character. The distinction between the two articles is manifest, and for one, I do not purpose to discuss that difference. I entertain very pronounced convictions upon the subject matter of the section offered by myself, but they are convictions that I presume others have on the same subject one way or the other, and it is not probable that the views of the members could be changed by a discussion and I am content to submit the section upon its merits.

Mr. RICHARDS. Mr. President, I would like to say in reference to offering this substitute—

Mr. CORAY. Mr. President, I object to the consideration of that substitute on the ground that it has been gone over—the principle part of it was gone over yesterday, and debated here for a whole day.

Mr. ROBERTS. Mr. President, I arise to a point of order. The gentleman is altogether out of order for the reason that the only consideration of the substitute was had in the committee of the whole and not in the Convention.

The PRESIDENT. The point of order of Mr. Roberts is well taken.

Mr. RICHARDS. Mr. President, I desire, in support of the substitute that I offer, to say that it is not presented for the purpose of opening up the discussion that was gone over yesterday. As far as I am concerned, I am willing to take a vote upon this section at once. I understand it is a proper section to offer as a substitute. It goes as Mr. Varian says, not only to the extent of his section that he proposed, but even further, and, therefore, it is properly a substitute. If acted upon by the Convention and it should not prevail, then the section that he offers might prevail.

Mr. VARIAN. Do you think that the matter in your substitute covers all the ground in my section? Could not they both stand together, provided the Convention adopted them? Would you exclude the matter in mine because of what is in yours?

Mr. RICHARDS. Yes, sir; that is my understanding of it. I believe that the substitute that I offer is sufficiently broad to include all that is contained in the section that you offer and to cover more ground, and I am willing to take a vote at any time upon the subject.

Mr. KIMBALL (Weber). Mr. President, I would like to call the attention of the house to this matter. We spent considerable time yesterday in committee of the whole discussing section 1, as contained in the report of the minority of the committee on legislative, and altogether upon the report made by them, we spent the whole day in the committee of the whole. After considerable discussion, section 1 was entirely rejected by that committee and the article reported back to this house with the recommendation that the article be adopted as reported. Now, the substitute offered by the gentleman from Salt Lake (Mr. Richards), is simply a reiteration of sections 1 and 2 of that report, except clothed in different

language. The object of the substitute is to forbid the Legislature from granting bounties in favor of manufacturing or other industries in this Territory. That is the same thing that was discussed here yesterday and the same thing that was acted upon.

Mr. CANNON. Mr. President, I would like to have both of these read. I am opposed to them both.

Mr. EVANS (Weber). Mr. President, this matter was discussed on yesterday very thoroughly and I do not desire to take up much more time upon it. I was not here yesterday, and if permitted, I would like to make a few remarks. I want to say, gentlemen of the Convention, that so far as I am individually concerned, I would very much prefer to support the substitute offered by the gentleman from Salt Lake (Mr. Richards), but if that be not accepted by this Convention, I shall vote for the substitute offered by Mr. Varian. If there be a disposition in this Convention to keep out of the Constitution this provision in one form or another, I think I need not fear to predict that dire results will follow. It is the modern trend of constitution making to prohibit the state, county, and municipality from loaning its credit in aid of any private corporation. The history of the United States has fully demonstrated the wisdom of such provision.

It is useless to say that if our Constitution be left so open that private enterprises and corporations can organize and apply to the State through its officials and representatives for aid, that a great abuse of power will naturally follow. I think we ought to consider this matter in the light of non-partisanship in its truest sense—we know as citizens of the new commonwealth, that if this matter be not guarded, if no restriction whatever be placed in the Constitution respecting this subject, there will be many abuses follow. Combinations of individuals

will organize. Trusts will be formed for the expressed purpose of securing from the public treasury the money which is drawn by way of enforced taxation from the great body of the people. We have every reason to believe—in fact, we ought to know it, in the light of past experience, that whenever an avenue be left open so that unscrupulous or shrewd business men can get together and organize and in the interests of their own business secure the aid of the State, it will be done. Just so sure as this question is not guarded, just so sure will the public treasury be depleted by organizations of the character I have mentioned. What is loaning the credit of a state or a county or a municipality? In short, it means that if any corporation or enterprise desiring to start a business and for the purpose of aiding it, the State endorses or rather guarantees the bond or the paper of such individual or corporation—in the first instance, it may be considered perfectly harmless. It may be reasoned that it would develop enterprises and the latent resources of our new State to permit the State to loan its credit or to guarantee bonds for the purpose of starting these enterprises, and it might also be reasoned that those enterprises would pay the bonds or other obligations and the burden would never rest upon the State. But has history demonstrated that to be true? Surely it has not, but even if it has, the principle itself is wrong. It will not do in governments such as we have to engage or join hands with the individual in the enterprises of the individual. There should be entire and complete segregation between the public interests and business and that of the individual interests and business. We will find—and I will predict it now, gentlemen, if one or the other of these substitutes does not go into this Constitution, we will find that as soon as we enter upon the threshold of statehood, as soon as we secure it, and as

soon as it is organized and the Legislature meets, we will find combinations of wealth and we will find trusts, applying to the Legislature in order to aid and establish their industries, to loan them the credit of the State for this purpose, and we will find it to be true also in the future that the State will bear the burdens, because many people will organize for the purpose of carrying on what they believe to be industries for the welfare of the people, they will find failures in their business and the State will have to assume and pay the obligation, by reason of their endorsement or guaranty of these bonds. It is just as sure to come in this Territory as it has elsewhere. It is just as sure to bring financial ruin upon this people as that we fail to restrict it in this Constitution. Gentlemen upon the otherside, think as you please with respect to the question of bounties, and differ as you may with us of the minority, yet upon this question now before this Convention can we not honestly and candidly join hands in seeing to it that the business of the State shall be separate from that of the individual?

Mr. KIMBALL (Weber). Why is it then, that you gentlemen on your side did not introduce a substitute, leaving out the question of bounties that was discussed all day yesterday?

Mr. EVANS (Weber). I was not here yesterday.

Mr. KIMBALL (Weber). The gentleman who prepared the substitute was.

Mr. EVANS (Weber). That is all right. I stand by my colleagues so far as I am concerned, and if I had been here, I should have urged it more.

Mr. CANNON. Will the gentleman yield for a question?

Mr. EVANS (Weber). Yes, sir.

Mr. CANNON: I understand that in 1892, you were a member of the Legislature, and if my memory serves me correctly, you voted or spoke in favor of a

bounty to the Utah sugar factory. If that be true——

Mr. EVANS (Weber). Before you go any farther, I will say right now, that I did not, and the records will not show it.

Mr. CANNON. Did you speak in favor of it?

Mr. EVANS (Weber). I did not, neither did I vote for it.

Mr. CANNON. I wanted to ask if that was true, I had been informed it was.

Mr. EVANS (Weber). There was about thirty thousand dollars which had been appropriated by the Legislature of 1890, and I think some nineteen thousand dollars of that amount of money had been actually paid to the sugar factory by way of bounties. There was yet about ten thousand dollars—I may be wrong about the figures, but these are substantially the facts. There was yet about ten thousand dollars remaining. The law would expire in 1893. I voted to divide the remaining amount of money which a previous Legislature had appropriated, between the years 1893 and 1894, or else it was 1892 and 1893. I think that was it. I did not advocate the bounty at that time. I was then opposed to it as much as I am now. But this, gentlemen, is not a question of bounties at all. Suppose some railroad corporation should organize in this Territory with the ostensible purpose of benefiting the people here by bringing in capital and furnishing better and more easy transportation, and suppose it should be organized by some individuals who were influential in the community and who would say, "We cannot carry on this enterprise with our individual credit. We apply to the Legislature of the State for the purpose of securing the aid of the State to guarantee our bonds." And suppose the Legislature would guarantee bonds of a million or a million and a half or two millions of dollars and suppose the enterprise

should prove a failure, should the poor taxpayers who toil and labor day after day be required by means of enforced taxation to contribute to the failure of such a corporation? I put that question to you, gentlemen, and it is not an improper thing that such a thing will occur. Why is it that the great state of New York and other great states in this Union have made similar provisions to this mentioned in the substitutes? A constitutional convention of 1894, which was republican—a majority at least of the members were republican, passed a provision similar to this proposed, "Neither the state nor money of the state shall be given or loaned to or in aid of any association, corporation, or private undertaking," making some minor exceptions. I only cite this—and, gentlemen, you can cite republican constitution after constitution, along down the list, and you will find that it is the modern trend of constitution making. Why are these provisions inserted in these constitutions in republican states? Because they have felt the evil hand of legislation which has permitted the state to loan its credit to such institutions. Gentlemen of the majority, I predict to you here and now, and I do not expect that it will cause any fear to generate in the minds of you upon the majority—but I predict that if you leave this Constitution so open that such methods as have been practiced in the United States may be practiced here, that the people who elevated you here in power will hurl you back again to the rank of the people.

Mr. EICHNOR. That is where we are going to get anyhow.

Mr. EVANS (Weber). That is where you ought to go and where you will go if you place no restrictions in this Constitution.

Mr. HALLIDAY. And stay there.

Mr. EVANS (Weber). Go before the people of this Territory if you please, and tell them that you have formed a

Constitution in which the State will loan its credit to any private individual or corporation, to aid its enterprises, and let the people once understand that you have done it, and I say again that the party now who is in the majority in Utah will not retain that power but a very brief space of time. It was not in your platform of principles. You made no issue upon this at all. Why now do you desire to leave it so that such a thing could be made possible? I will venture to say, instead of bringing capital into this Territory as some people think it, will, that capital and money will shun the Territory. Who would want to invest money in a new State where the business sagacity of men would know that the State was loaning its credit to individual enterprises? The tendency would be to retard capital rather than to invite it, and the tendency would also be to make a paternal government—the very thing which ought not to exist. Look at the case of the Congress of the United States, under the powers which it could exercise under the provisions of the Constitution, loaning its credit and advancing large sums of money for the building of railroads across the continent. To-day we find that those individuals are unable to meet the obligation. To-day we find that there are rumors upon all hands that the first mortgages upon the Pacific railroads are about to be foreclosed. The government has advanced its money, loaned its credit, guaranteed the payment of a certain number of bonds amounting to something over fifty million. Is there any possibility under the circumstances for the government to secure the money it has advanced? I do not believe that any person who has fairly investigated that question will say there is. The first mortgage bonds alone when foreclosed will probably leave the government without any recourse whatever. Even if it does not, look at the trouble which it has already precipitated. You will find too, gentle-

men, that if this principle prevails, these very corporations who receive the aid of the State in this manner will in the future be the oppressors of the people. If they do not fail and get the benefit of the money of the State they will grow strong bodies and will exist in the community in defiance of the rights of the people. Every time a government undertakes to give state aid, the people to whom it is given begin to labor under the impression that they have a contract with the State which is irrevocable, a contract which can be enforced in the courts of law, just as it is in the case of the sugar trust and sugar manufacturers, believing that the McKinley bill granted bounties for a certain length of time.

After the law had been repealed by an act of Congress, they fly into the courts and say, "We demand, notwithstanding the repeal of the law, that certain moneys be given to us for these enterprises which we have established." There is no safe rule by which any government can carry on its business, except to make laws which will redound to the benefit of the people, and to make constitutions and laws for the public good, not to enact them for private individual gain or benefit. There should be an entire and complete separation between individual business and the affairs of the government of the people. Can you say, gentlemen, that it is safe in any sense of the word for the government to join hands with the individual in the private business of the individual? That is exactly what you are leaving open here, so that the Legislature of the future State can do it. It is the very thing which we here desire to prevent, and I thank God that one republican here stands up in his place and introduces a substitute which reaches partially the evil which would be inflicted upon this people were it not to be incorporated in the Constitution.

Mr. VARIAN. May I ask the gentle-

man a question? Was the gentleman referring to me?

Mr. EVANS (Weber). I was, Mr. Varian.

Mr. VARIAN. Well, I want to disclaim any connection with the substitute.

Mr. EVANS (Weber). You have offered one.

Mr. VARIAN. It has no connection with the matter of that substitute. Mine is an original section, and does not refer to this question that was discussed yesterday at all.

Mr. EVANS (Weber). I was not here at the time it was introduced, but I understood it was open for discussion and it was upon that question that I was complimenting you, Mr. Varian. Now, gentlemen, we have taken up I know a good deal of time, and I would like to discuss this matter further, but I want it distinctly understood upon the record here, that I am in favor of the substitute offered by Mr. Richards, and if that be not carried, then I am in favor of the one offered by Mr. Varian.

Mr. VARIAN. Mr. President, I very seldom make a motion similar to the one I am going to make now, but I do it because I believe it is in accord with the desire of the house. I move the previous question upon the substitute and the amendment—not the article.

The question being taken on the motion for the previous question, the Convention divided, and by a vote of 56 ayes to 24 noes, the previous question was ordered.

The roll being called on the substitute offered by Mr. Richards, the result was as follows:

AYES—41.

Barnes	Low, Cache
Boyer	Maeser
Buys	Mackintosh
Call	Maloney
Corfman	Murdock, Wasatch
Creer	Nebeker
Cunningham	Partridge
Evans, Weber	Peters

Evans, Utah
Francis
Hammond
Hart
Halliday
Howard
Hughes
Ivins
Johnson
Kimball, Salt Lake
Lemmon
Lewis
Lowe, Wm.

Raleigh
Richards
Roberts
Robertson
Robison, Wayne
Sharp
Snow
Spencer
Thoreson
Thurman
Warrum
Whitney.

NOES—47.

Adams
Allen
Anderson
Bowdle
Brandley
Button
Cannon
Chidester
Christiansen
Clark
Coray
Cushing
Eichnor
Eldredge
Emery
Gibbs
Goodwin
Hyde
James
Jolley
Keith
Kearns
Kimball, Weber
Lambert

Larsen, L.
Larsen, C. P.
Lowe, Peter
Lund
McFarland
Morris
Moritz
Murdock, Beaver
Murdock, Summit
Page
Peterson, Grand
Peterson, Sanpete
Ryan
Shurtliff
Squires
Stover
Strevell
Symons
Thompson
Van Horne
Varian
Wells
Williams.

ABSENT—15.

Crane	Maughan
Driver	Miller
Engberg	Preston
Green	Ricks
Haynes	Robinson, Kane
Heybourne	Thatcher
Hill	Thorne.
Kiesel	

EXCUSED—1.

Farr

PAIRED—2.

Kerr

Pierce

The substitute was declared rejected. The roll being called on the question of the adoption of the section offered by Mr. Varian, the result was as follows:

AYES—46.

Adams	Lowe, Wm.
Barnes	Low, Cache
Boyer	Maeser
Buy	Mackintosh
Call	Maloney
Coray	Murdock, Wasatch
Corfman	Nebeker
Creer	Partridge
Cunningham	Peters
Evans, Weber	Raleigh
Evans, Utah	Richards
Farr	Roberts
Francis	Robertson
Hammond	Robison, Wayne
Hart	Ryan
Halliday	Sharp
Howard	Snow
Hughes	Spencer
Ivins	Thoreson
Johnson	Thurman
Kimball, Salt Lake	Varian
Lemmon	Warrum
Lewis	Whitney.

NOES—44.

Allen	Larsen, L.
Anderson	Larsen, C. P.
Bowdle	Lowe, Peter
Brandley	Lund
Button	McFarland
Cannon	Morris
Chidester	Moritz
Christiansen	Murdock, Beaver
Clark	Murdock, Summit
Cushing	Page
Eichnor	Peterson, Grand
Eldredge	Peterson, Sanpete
Emery	Pierce
Gibbs	Shurtliff
Goodwin	Squires
Hyde	Sto'ver
James	Strevell
Jolley	Symons
Keith	Thompson
Kearns	Van Horne

Kimball, Weber	Wells
Lambert	Williams.

ABSENT—16.

Crané	Kerr
Driver	Maughan
Engberg	Miller
Green	Preston
Haynes	Ricks
Heybourne	Robinson, Kane
Hill	Thatcher
Kiesel	Thorne.

The PRESIDENT. The section is adopted.

Mr. ELDRIDGE. Mr. President, I ask for the roll call to be repeated. It don't agree with my count.

Mr. VARIAN. I arise to a point of order.

Mr. PIERCE. I arise to a point of order.

Mr. CANNON. I arise to a point of order.

The PRESIDENT. Mr. Varian has the floor on the point of order, what is it?

Mr. VARIAN. The roll call has been announced by the secretary and accepted by the chair and declared official and we cannot have another roll call under those circumstances. The time for challenging the announcement of the vote is after the secretary declares his result to the chair and before the chair announces it.

Mr. EICHNOR. We did not hear it.

Mr. CHIDESTER. When the secretary declared the result none of us knew what it was. The chair announced his decision immediately and we had no time to say anything.

Mr. PIERCE. Mr. President, my point of order is that it requires a majority of the delegates elected to pass anything of this kind. It requires fifty-four votes. My point of order is that the motion is lost under the rule.

Mr. VARIAN. Mr. President, I raised the first point of order. I suggest that the rule refers to the article as a whole.

Mr. EICHNOR. Mr. President, I challenge the vote as announced.

Mr. VARIAN. Somebody else has done that before you.

Mr. IVINS. Mr. President, I move a writ of prohibition to prevent another count.

Mr. VAN HORNE. Mr. President, I call attention to rule 23 which provides that the final vote agreeing to each proposition shall be taken by the yeas and nays and no such proposition shall be considered as agreed to nor the instrument as a whole, except a majority of the delegates elected vote therefor.

The PRESIDENT. I think the point of order is well taken.

Mr. VARIAN. I take an appeal from the decision of the chair. If we are to have any such absurd proposition as that, let us debate it all the afternoon.

Mr. EVANS (Weber). I do not think the president understands it. That is, respecting the article as a whole, or the Constitution as a whole.

The PRESIDENT. This is not a vote on the adoption of the article, as a whole, because there is a section yet untouched. This is simply upon the question of the adoption of this section.

Mr. VARIAN. That would apply to the inserting of a word or striking out of a letter.

Mr. KIMBALL (Weber). I would like to ask for a construction of that rule.

The PRESIDENT. I think it means the article itself.

Mr. KIMBALL (Weber). It cannot mean that, because that language immediately follows.

Mr. RICHARDS. If you will permit me—if you will observe the language, it is not the article as a whole, but to the instrument as a whole.

Mr. KIMBALL (Weber). I understand "article" and "instrument" are the same thing in this connection.

Mr. RICHARDS. I think not.

Mr. KIMBALL (Weber). This is not an article offered by Mr. Varian. It is a proposition to go into the Constitution. There the double language is

used and I am asking the President for a construction of that rule.

Mr. HART. I call the chair's attention to the fact that this has been ruled upon several times before and it is against the position of the gentleman from Weber. In fact he is the very man, if I remember correctly, that insisted upon the rule that we are now contending for.

Mr. EVANS (Weber). I arise to a point of order. I understood the chair to announce that this rule did not apply to this question. If the gentlemen desire to discuss it, they ought to appeal from the decision of the chair.

Mr. BUTTON. I arise to a point of order—

Mr. CHIDESTER. I arise to a point of order. I understood that on this section as amended the chair rules that it took a majority of the delegates elected to carry it.

The PRESIDENT. Yes, sir.

Mr. CHIDESTER. And I maintain that that is the decision.

Mr. BUTTON. I arise to a point of order. My point of order is that the president passed upon this and that an appeal from the chair had been taken.

Mr. EVANS (Weber). The chair reversed its ruling.

The PRESIDENT. Don't get excited now, gentlemen.

Mr. EVANS (Weber). I understood the president withdrew the decision, which he at first announced.

The PRESIDENT. The decision of the chair is this, that under this rule a majority of this Convention has to pass upon those matters.

Mr. VARIAN. A majority of the Convention elected?

The PRESIDENT. A majority of the members elected.

Mr. VARIAN. On every proposition to go into the article?

The PRESIDENT. Yes, sir.

Mr. VARIAN. I take an appeal from the decision of the chair.

Mr. RICHARDS. Mr. President, I de-

sire to ask for information, whether the decision of the chair now is that the motion prevailed or was lost? I understood the chair to announce that the motion prevailed and the section was inserted. Am I correct about that?

The PRESIDENT. The chair made that announcement, but the members declared that they had not heard what the statement was as read by the secretary, and on the springing of this question of order upon this rule, the chair determines that a vote of a majority of the members elected was necessary to determine one of these propositions.

Mr. RICHARDS. Does the chair now hold that the motion was lost to insert this article?

The PRESIDENT. No, sir; not in that sense—but that the matter can be reconsidered.

Mr. RICHARDS. I desire to know, Mr. President, what we are voting upon and what the appeal is from?

The PRESIDENT. The appeal is from the decision of the chair as to requiring a majority of the members elected to pass one of these propositions.

Mr. RICHARDS. To pass this section that we voted upon?

The PRESIDENT. Yes, sir.

Mr. VARIAN. Then, I understand it, the motion was lost.

Mr. SQUIRES. The count was challenged. What are you going to do with the challenge?

Mr. RICHARDS. That is what I am trying to find out.

The PRESIDENT. 54 is a majority and but 46 voted for it.

Mr. VARIAN. Now, I understand the motion was lost. Now we appeal from that decision and want to discuss it. Now, gentlemen of the Convention, I trust this matter can be determined without relation to what your desires may be, as to the subject matter behind it. The single question before this Convention for its determination is this,

whether the standing rule of the Convention requires that every proposition or amendment whether it be one word or a section to be added to an article upon its third reading, requires a majority vote of the delegates elected to this Convention. If it be so, of necessity, it must apply to every motion that is made upon the third reading of the proposition. It must affect the striking out of a numeral or a letter or a word, as well as the inserting of a section. It certainly has not been the practice in this Convention. No president or chairman has ever ruled it before, and I assume that whether the point was made or not, it would be the duty of any gentleman in the chair to enforce the standing rules and make the point himself, if it be a standing rule of the Convention, just as much as it would be his business to declare that a proposition on its third reading was lost if it only received 52 or 53 votes without anybody challenging it. Now, let us see how this rule reads. (Reads rule 23.) It is a tortured and forced construction by you, gentlemen, to interpolate into this rule that "proposition" there means an amendment of any kind presented for the consideration of the Convention, while the whole article is under consideration.

By reference to other rules you will find that this word proposition has a settled meaning, in relation to the context of these rules. It means a complete article upon a particular subject. "A proposition for insertion in the Constitution," is the language of another rule in relation to the method and procedure which shall govern the introduction and management of propositions introduced for that purpose. For instance, we have a rule providing for a first and second and third reading of a proposition, and a reference to a standing committee. That means the entire proposition governing that subject matter. Now, this rule cannot be interpreted as the gentlemen interpret it,

that the final vote agreeing to the first proposition and upon agreeing to the instrument as a whole, means the agreeing to every proposition that may be offered by way of amendment. It means the vote agreeing to the proposition when you shall come to take the vote finally upon the entire proposition, just as it does in the case of a legislative bill. Whoever heard of such a proposition being enunciated in a parliamentary body before? Whoever heard of such a proposition being passed upon in that way? It is common parliamentary knowledge that until the final vote is taken upon a third reading of a bill amendments are carried by a majority vote of those present—by a majority of the quorum, if there is only a quorum present, and everybody knows it. Now, can you afford to torture this, to disturb and overturn a plain rule like this, simply because you are disappointed—that is what it means—disappointed in the result of this vote? Let me say to my party associates on this floor, if you are disturbed in your minds and therefore unable to act fairly and properly in the disposition of this appeal because of the thought that may be pressing you that there is something affecting bounties in this proposition, that I disclaim it. There is nothing there. The bounties are still as sacred to you as they were before and they are just as well preserved. It simply refers to the loaning of credit, to the subscribing of stock and bonds in aid of railroads and other similar enterprises, and I ask you to lay aside all prejudice in this matter and determine this appeal upon its merits.

Mr. ROBERTS. Mr. President, I ought to be exceedingly happy on this occasion, and I am. I hold with the gentleman who has just taken his seat, on this proposition. It is as clear as daylight that he is right upon it, and if this house shall vote against that view of the case, I feel satisfied that it will be

because of their prejudice in the subject matter that is behind it, and is affected by this ruling. (Reads rule 23.) I believe, Mr. President and gentlemen of this Convention, that this has reference to the entire article as a proposition, and to the entire Constitution as a whole, and not for the separate motions in any article. Now, if you shall give the interpretation to this rule that the ruling of the president ascribes to it, then I want to tell you that your motion to put woman's suffrage in the Constitution fails, because the vote to put it in the Constitution was but 52 as against 42, and there was not a majority of members elected that voted to put it in the Constitution, and that is true as to many others of the propositions, and perhaps nearly every question that has been debated upon this floor, and it means unsettling all the work that this Convention has done. Now, if I was as much wedded to this question of suffrage as a good many people think I am, I have good reasons for supporting the chair in this matter, but gentlemen, the proposition involved in this question, as to whether the credit of this State shall be loaned to corporations, to build up private fortunes and to establish industries for private gain, overshadows all things else, and I gladly give away the advantage that would come to me, however, upon the suffrage question, in order to secure this State against the inroads that will be made upon it if you do not prohibit companies from coming here and begging for the credit of this State to aid them in launching their enterprises. I pray you to divorce yourselves from your prejudices and consider this proposition upon its merits as a parliamentary question alone. That is the way I shall consider it.

Mr. IVINS. Mr. President, it seems to me that the whole question hinges upon a proper interpretation of this word "proposition" as it appears in rule 23. Now, let me call your attention

to subdivision 4 of article 3, to begin with, "introduction of ordinances and propositions for insertion in the Constitution." Now, rule 22, "so soon as any entire proposition for incorporation in the Constitution shall have been disposed of, etc." Again, in rule 23, "the final vote agreeing to each proposition;" I submit, gentlemen, that "proposition" in every case in which I have referred to it refers to the separate article that is to be incorporated into the Constitution and it has no reference at all to any amendment that may be offered to any section or subdivision there. It can be interpreted in no other way. It seems plain to me that when all of these rules are taken together and properly considered that no one with any desire to be just and fair could set up the claim that this simple amendment that has been offered here is a proposition and must necessarily receive a vote of all the members elected. It is very true that at one time the vote upon the question of woman's suffrage was not made by a majority of the members elected. It is also true that when this article was passed as a whole, it did receive a great many more than a majority of all the members elected, and consequently stands there firm and solid, just as it should, and so this proposition, when it is perfected and completed must receive a majority of all the votes of the members elected before it can be sent to the committee on compilation. I claim, gentlemen, that the decision of the chair is wrong, that it ought to be reversed and I shall vote in favor of the appeal.

Mr. KIMBALL (Weber). Mr. President, the gentlemen are entirely mistaken when they think our side of this question is so prejudiced that we will vote to change any rule of this Convention. The only matter that I objected to was the ruling of the chair immediately upon the statement of the secretary of what the vote was, and then refusing to entertain a challenge.

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It gave no opportunity. Now, sir, my objection to that was that it took so long to figure up that ballot that I was convinced from the tally kept here by ourselves that the vote was wrong, and that it was announced wrong by the secretary—not intentionally, but by mistake, in figuring it up, and that we had a right to have a recall of that roll. I agree with the gentlemen as to the construction of that rule—and shall vote, so far as this question is concerned, against the decision of the chair, that it requires a majority to pass any amendment. And so far as Mr. Roberts hugging the sweet delusion to his soul that the woman's suffrage vote did not carry under the ruling that the chair has now made, the amendment failed there because it did not have a majority of all elected, but when section 1 was put before the house for adoption, it had 75 to 16, so there was a majority and it is in the Constitution, much to my regret.

Mr. EVANS (Weber). You voted for it.

Mr. VAN HORNE. Mr. President, I do not agree with the gentleman on the construction of those rules. It may be impertinent to differ with the chairman and the other members of the committee on rules, but I do so, on what seemed to me to be very fair ground. The proposition for insertion in the Constitution was the article as reported from the committee of the whole to this Convention. The question about amendment of that article—whether that would be part of the article before this Convention or not, is another question, but I call your attention to rule 47, at the end of the rule, which takes out that whole question of propositions, and the argument that they make from the fact that it is an entire article all the way through, and the rule reads, "No proposition or other matter shall be inserted in the Constitution, unless by the assent of a majority of the members elected."

If this is not a proposition, for God's

sake, is not it other matter?

Mr. IVINS. Are we voting now to insert this in the Constitution?

Mr. VAN HORNE. I think so.

Mr. IVINS. No, we are not. We vote to put it in the Constitution when we vote on the article as a whole. We are not voting to put it in the Constitution.

Mr. JAMES. May I ask Mr. Ivins a question?

Mr. IVINS. Yes, sir.

Mr. JAMES. Could we reject this in the article and vote the balance through—would not we have to reject the whole or no part of it?

Mr. IVINS. Why, of course we would. If this goes into it—

Mr. JAMES. Is not this the last vote upon this as a separate article? Can there be any other vote upon this as a separate article?

Mr. VARIAN. You can amend it.

Mr. VAN HORNE. I thought I had the floor. I was saying, as I view this thing under our rules, this is the last chance this Convention has to consider a proposition and determine what the sections of that proposition shall be until it is reported from the committee on arrangement, and then only phraseology. I maintain that it would be an unheard of thing, if, after the adoption by unanimous vote, practically speaking, of the main part of an article or proposition, a bare majority of the Convention which is by no means fully represented, could force into that article things that are repugnant, as many of us think, to the rest of the article, and to the balance of it, and force men to the proposition that they must vote against the whole article or vote in favor of something that they do not believe in. I think that the reason of the proposition being considered as a whole—an article being considered as a whole, is that after it is passed it shall require a majority vote of all the members elected to add it to the article, because that majority vote being to add it to the article, will in no wise interfere

with the passage of the article as a whole. Suppose a case, that the vote would stand with this amendment added, just as it has done on the question of the proposition of adding the amendment. All that we have done without any question in the past would be done away with by the act of men who voted then as they vote now. The work that we have gone through with and all agreed upon would be done away with, by the vote standing upon the article as a whole, just as it stood upon this question. And gentlemen maintain that it was the intention of these rules to trap the Convention into doing work for days and days and then allow, upon a sprung question with a representation of the Convention not fully here, an amendment to be put in that will force the question of doing away with all the work of the preceding days, in order to avoid having to take that amendment. If the Convention was all represented here there could be no harm in that perhaps because then there would be a majority vote, and a majority vote would carry it when it came to the submission of the whole article or the whole Constitution, but I think, taking those two rules together—the first rule that the final vote agreeing to each proposition must be a majority vote, and then that no proposition or other matter shall be inserted in the Constitution unless by the assent of the majority of the members elected to the Convention, it means that we are to proceed in each case by a majority when an article has been adopted, that an addition to it must be passed by a majority of this Convention.

Mr. CREER. Would it not take this proposition of Varian's as being in the nature of an amendment to the article?

Mr. VAN HORNE. I take it as being in the nature of an addition to the article and being a separate matter to be inserted in the Constitution.

Mr. CREER. It is an amendment, is it not—still further?

Mr. VAN HORNE. I think not, sir.

Mr. CREER. Can you find a precedent anywhere, either in a municipal, legislative, or a state legislative body, where it required a majority of those elected to insert an amendment?

Mr. EVANS (Weber). Nobody can.

Mr. CREER. You cannot find it, sir. Your position is entirely untenable.

Mr. HART. For fear, Mr. President, that there might be some chance for ambiguity in the wording of this proposition or difference of opinion as to its construction, and for the purpose of getting a construction upon it, that we might be guided by it, and know what the rule was upon the subject, I distinctly brought this matter to the attention of the Convention and of the president for the purpose of having a ruling upon it and did that at the first stages of the third reading upon propositions when we were considering the preamble and declaration of rights. The ruling of the chair at that time was that proposition did not mean a single section, but that it meant the whole article, and I was satisfied with the ruling as a general proposition for this reason, that if the ruling of the chair had been otherwise I realized that we would have to bring in an amendment to the rule for the reason that it was simply impracticable. It was a useless waste of time to call the ayes and noes on every section of this Constitution, and if it had been the ruling of the chair, I would then have favored an amendment to the rules, making it, sir, that the ayes and noes were to be called upon the whole proposition. The ruling of the chair was as before stated that the proposition here meant the whole article. Every one acquiesced in that ruling. I think the matter was passed upon perhaps once afterwards, and now, sir, we have proceeded upon that ruling until this time.

As was suggested by one of the previous speakers, if the ruling now is defeated, that proposition means section—

then we shall have to go back and pass upon each one of these propositions over again and these sections, or else we will have to suspend the rules and pass upon the whole together in one lump. I take it that another rule that we have adopted here—a special rule requiring the secretary to enter upon his minutes the ruling of the chair upon every proposition has this end in view, that members may know what the ruling of the chair is and be governed accordingly, and for that reason, I am opposed to the chair reversing his former decision upon this matter and I shall, therefore, vote reversing the chair upon this proposition.

Mr. ELDREDGE. Mr. President, I most certainly take issue with my distinguished friend from Salt Lake and also the gentleman from Davis upon this question upon two grounds. (Reads rule 23.) Now, Mr. President, I hold that this proposition—I cannot call it anything else than a proposition, because it certainly embodies within itself a full and complete proposition looking to a certain and a specific purpose, and if this proposition had received a majority of the votes of this Convention and all the balance of the article had failed receiving a majority of the votes, this proposition would have gone into the Constitution. I hold that under our rule. And if such was not the case, it was simply a waste of time in calling the yeas and nays. It might as well be determined in some other way, and in addition to this it was introduced as a separate proposition. It did not appear in that article from the committee of the whole, but it came here in a separate and distinct form.

Mr. EVANS (Weber). May I ask you a question? Does any amendment which is an addition to any section appear upon the proposition itself?

Mr. EDREDGE. If the yeas and nays were called for on any amendment, as it was on this, it would assume exactly

the same position that this has assumed. There is no amendment, I hold, that enters into any article that goes to form this Constitution, but what received by assent, if not by a direct vote, a majority of those voting upon it.

Mr. ROBERTS. Will the gentleman permit me a question? Would not this substitute that is here offered form part of the legislative article if adopted and become part of it?

Mr. ELDREDGE. That depends on what becomes of the legislative article.

Mr. ROBERTS. I ask another question and that is, is it not designed by the movers of it to make it a part of the legislative article?

Mr. ELDREDGE. A thing may be designed and yet it may not be perfected.

Mr. THORESON. I would like to ask the gentleman if this is a final vote upon this proposition?

Mr. ELDREDGE. I hold, sir, that if it had received a majority of the yeas and nays, it would have become a part of the Constitution, if all the balance of this article had failed under our rules, and if not, what is the use, Mr. President, of spending time calling the roll and ascertaining whether or not there are a majority in favor of the proposition?

Mr. EVANS (Weber). For the purpose of putting the delegates on record. That is why the yeas and nays are called—to give the delegates an opportunity to put themselves on record.

Mr. ELDREDGE. Well, I am not so anxious to get upon record as to waste our time in any such form. I do not know what other people may be. (Reads rule 27.)

I hold, when the proposition is made to amend a certain section and when the vote is announced, that if the yeas and nays are not called upon it, they assent to that proposition and by reason of that it becomes a portion of the section which it is proposed to amend. Now, I think, if we will go back and find the record that when the yeas and

nays were taken upon the first section of the article of elections and rights of suffrage, it was determined as passed, though it may not have received a majority. The question was not raised, and if the other portion of that article had failed getting the proper support that would have passed to the committee on compilation.

Mr. THURMAN. May I ask the gentleman a question? Suppose an amendment was offered to an article and there were 53 votes for it and 25 against it, would you say the amendment prevailed or would the amendment be lost?

Mr. ELDREDGE. Let me ask you how you would propose that the vote should be taken—yeas and nays?

Mr. THURMAN. I do not care how, whether by rising vote, or yeas and nays, or what.

Mr. ELDREDGE. If you took it by the yeas and nays, I would say that it was lost.

Mr. THURMAN. The rule says by the assent, it does not say the yeas and nays.

Mr. ELDREDGE. If the yeas and nays were not called and fifty-three voted for and the balance voted against and the chair announced the result, and the yeas and nays were not called for, I hold, then, that the balance acquiesced in the proposition.

Mr. THURMAN. If that rule is true, can you point to one single proposition that you can call to mind now, where the ayes and noes have been called, that has been passed?

Mr. ELDREDGE. Why, every article that has—

Mr. THURMAN. I am speaking of single propositions.

Mr. ELDREDGE. Why, we do not call the yeas and nays on every proposition. If there was some gentleman anxious, so anxious to get upon the record—

Mr. THURMAN. I would not care to be on record on that proposition on your side, I will admit.

Mr. ELDREDGE. On the first section of the woman's suffrage act—the yeas and nays were called upon it before we adjourned that evening and it was considered that it was passed.

Mr. THURMAN. There were seventy-five yeas on that.

Mr. ELDREDGE. I am not sure; but when the yeas and nays were called on the balance of the article, it was only called upon that portion which remained. I am not positive on that question.

Mr. EVANS (Utah). I am.

Mr. ELDREDGE. It may have been called on the whole.

Mr. VARIAN. Mr. President, I will ask gentlemen now to ask themselves if they do not really believe in their own minds that this is a little bit of a subterfuge. I know what it is, for the sake of accomplishing some ulterior purpose, to say, fix the lenses of mental vision and adjust them, as it were, so that you are enabled almost to read the proposition in any wise. Let me ask you, gentlemen, this question; when you are sitting in the committee of the whole, you are delegates, are you not, elected to the Constitutional Convention? Do you contend that an amendment there offered to a proposition that has come from one of your standing committees requires of necessity a majority of the delegates elected to the Convention?

Mr. ELDREDGE. It is a different proposition.

Mr. VARIAN. Is it a different proposition, my friend from Summit County?

Mr. ELDREDGE. May I ask the gentleman a question?

Mr. VARIAN. Yes.

Mr. ELDREDGE. Do you call the yeas and nays in the committee of the whole?

Mr. VARIAN. No. The gentleman makes his distinction between the different propositions to depend upon the calling of the yeas and nays. I beg to inform him the calling of the yeas and

nays is simply determining with precision and accuracy for the record the actual conclusion of the body. There is nothing in the matter of calling the yeas and nays in the sense that my friend uses it. Why, in Congress hundreds of bills are passed every year—hundreds of them, without anything more than a simple aye and no vote, many of the most important bills. When some member challenges the fact as to the determination of the body, then the yeas and nays are called for. So here. But let us see. Take rule 21. (Reads.) That is after it comes from the standing committee. You will remember that other rule that when a proposition—an article, something referring to a specific subject, comes from a standing committee, it goes right on to the calendar of the committee of the whole. In the committee of the whole, propositions shall be read by the chairman and considered item by item. What does that mean? (Reads rule.) Now, I ask again of these gentlemen, can they escape the logical result of that argument, if it shall prevail here, that at least fifty-four votes must be cast for every amendment in the committee of the whole, and do you mean that? Do you believe the rule contemplated that?

Mr. ELDREDGE. No.

Mr. VARIAN. The gentleman says he does not, but his reason for the distinction is utterly beyond parliamentary comprehension. He gives as a reason, because you have not got your aye and no vote there. You can take the vote of members by division and ascertain it just as accurately and precisely as you can by calling the ayes and noes. Still an amendment goes on. It may be an entire section, it may be a line, it may be a phrase, or a section may be stricken out, and when it comes back, gentlemen, from the committee of the whole, it is a proposition as a whole; it is a bill. It is then upon the calendar for third reading and final passage, and the final passage never comes until the third reading

is completed, and the third reading is not completed until the Convention or the legislative body has gotten through with the amending of it, from start to finish, section by section. Time is given for amendment, even after you go through to the last section, you may go back to the first, as was ruled here the other day, because this is the time when the proposition or the bill is to be put into shape, and when you are through with your amendments and your discussion, the question is on the final passage of the proposition, and there is never a roll call in this sense until that time shall arrive. "The final vote," what does that mean? Gentlemen give no significance or weight to the word "final." They would read it "every vote," agreeing to each proposition or to any proposition. (Reads rule 23.) That is in perfect harmony with the general principle governing these questions. That is in general harmony with the constitutional and other laws everywhere on the passage of bills; before they shall become laws, a majority of the members elected must agree thereto upon the final vote, upon the third reading, except that this Convention goes one step further and requires still another final vote, when all the propositions shall have passed—another final vote upon the Constitution as a whole. So that if, after all the propositions have been considered and agreed to, when they are put together and arranged, it shall appear that still a majority of the delegates are not satisfied with it, they can arrest it then. But that is not the question. (Reads rule 22.) Now, this section 36 that was adopted here—my amendment, is that to be referred to the committee on compilation and arrangement? Not, so. It still has to pass the challenge of this house. There may be amendments offered to that, perhaps. Men who voted in favor of it may give notice of reconsideration. There may still be another vote upon it. The final vote does not come until the

whole article is passed upon, and as I said before, do not deceive yourselves, because you certainly do not deceive me, in the belief that this house, as a house, believes in this evasion of this rule. It has never been considered so here, and every gentleman on this floor knows it. There have been matters hotly contested time and again during the five weeks of the sitting of this Convention and it passes all comprehension that they all should have gone through with a unanimity in cases where there were less than a majority of the delegates elected declaring the majority vote in favor of it without challenge. We do not believe it. We do not believe that it was ever thought of until to-day and that the purpose is because of the failure of the majority on this floor to carry through a proposition or to defeat a proposition. However that may be, gentlemen, let me point out a way to you, if you desire to eliminate this section from this article. Do not do it by overturning and overriding all parliamentary rule and your own standing rule. Do it in the ordinary parliamentary, manly, American way—give notice of a reconsideration and get your men in here and if you can bamboozle them into the belief—

Mr. THURMAN. They have not got any men.

Mr. VARIAN.—that they have got a bounty in it here, they can set it aside. Do not establish this precedent. It may come back to vex you to-morrow.

Mr. JAMES. Mr. President, I am just as anxious to understand the rules that have been given to us for the government of this house, as anybody possibly can be in it. And I have especially looked over this matter since the gentlemen commenced to argue it, and I have before me rule 23, which each one of you have. Now, I want to know in all reason how any gentleman can take that rule and construe it differently from the way the chair has ruled upon

this question? I am not going to argue the merits of this rule. I do not know anything about the merits, and I care less. (Reads rule 23.) Now, in any reason, can a man maintain in this language before this Convention, that that is not the plainest English statement that I ever saw put upon a piece of paper?

Mr. ROBERTS. Would the gentleman yield for a question?

Mr. JAMES. Why, certainly.

Mr. ROBERTS. Does not the fact that in line 1, it is said that a final vote agreeing to each proposition, and upon agreeing to the proposition as a whole, shall be taken by yeas and nays, presuppose previous votes being taken on parts of the proposition?

Mr. JAMES. No, sir; I do not think it presupposes anything. It is too plain a proposition. It says the final vote agreeing to each proposition: Now, it may be very funny to some gentlemen in this Convention, that have seen fit to make fun of everything that has been brought before this Convention, from the time it convened up until the present moment, Mr. President, unless it agreed with their view, but I say that I have as much right to my opinion, irrespective of the funny part of the proposition, as any other gentleman upon this floor, and I stand here, thinking I came to a dignified body, where men do not attempt to break down or sneer at men when they get up to make a proposition upon this floor. Now, I will say again, Mr. President, if the gentlemen will make rules they should live by them, they should stand up to them. When you put upon a piece of paper a single proposition, let us admit it. Now, if there has been a wrongdoing up to this time, it does not change the fact. (Reads rule 23.) Now, Mr. President, these gentlemen would tell you that they have established a rule that will admit into an article a section upon a bare majority of all present, when that section would con-

tain the whole gist of the article, and the article itself cannot be adopted without a majority vote of every delegate elected to this Convention. Now, is that a reasonable proposition?

Mr. EVANS (Weber). Mr. President, I would not say anything upon this occasion, did I not think it necessary, because of the courtesies that I have many times received at the hands of the chair, and I would not, if I did not think the question involves a vital parliamentary question, make any remarks that would be derogatory to that decision. But gentleman of this Convention, it has been put to you pretty pointedly by the gentleman from Salt Lake, that if the decision of the chair be sustained in this instance a fundamental, elementary, parliamentary principle will be violated. I do not think it necessary to discuss questions or rules, but only to call your attention to the fact that it is not only the written parliamentary rule, but the unwritten rule that in all parliamentary and legislative bodies, where a proposition is under consideration, amendments might be made to that proposition by a majority of the quorum present. That is so elementary that I am astonished that some men will dispute the proposition. Is a mere amendment, a proposition, which finally to be voted upon? Why, sir, you permit the decision of the chair to stand in this instance, and do you, gentlemen of the majority, think that you can make a Constitution this summer? Suppose the minority here were to undertake to obstruct legislation, obstruct the formation of this Constitution, do you think you have enough republicans to form it? Some of your members are likely to be sick, some of them are likely to be away from home on pressing business occasions, some of them on account of the sickness of their families, and for diverse reasons. I warn you that if you establish this precedent here, such obstructions might

be thrown in the way of forming a Constitution that it would be almost impossible for you to effect it.

Mr. ELDREDGE. May I ask you a question?

Mr. EVANS (Weber). Yes, sir.

Mr. ELDREDGE. Is it not more to my interests than to yours—to the republican interests than the democratic interests to have a Constitution?

Mr. EVANS (Weber). Why, not the least in the world, but I will reply to the gentleman from Salt Lake, that he has underlying his position on this floor the fact, the belief, that some republican principle is about to be violated, because of the fact that the majority of the Convention present sought merely to prevent the future State from endorsing and guaranteeing the commercial paper of private corporations. It is not a question of bounties here at all, gentlemen. The instrument is amply left open, so that you can put your hands into the public treasury and take out cash from the people and bestow it upon favored individuals.

Mr. BOWDLE. Mr. President, I call the gentleman to order. He is not speaking to the question. He is arguing the whole question.

Mr. EVANS (Weber). I am speaking of the motives underlying those gentlemen who desire to sustain the decision of the chair here. I say, and I say it without fear of contradiction, that if this were an ordinary question about which there was no politics, the chair himself would not have made the decision, much less the gentlemen—

Mr. BOWDLE. I call the gentleman to order. He has no right to castigate the chair here in that manner.

Mr. EVANS (Weber). I mean no disrespect to the chair. I am talking to the Convention. The appeal is from its decision.

Mr. CANNON. Mr. President, I arise to a point of order. I insist that the gentleman is doing that which is contrary to parliamentary practice,

and he cannot thus criticise the chair and be in order.

Mr. EVANS (Weber). If I may, Mr. President, I will withdraw any remark that I made derogatory to it, because of my friendly relations to the chair. I would not say a word that would reflect upon it.

Mr. PRESIDENT. You need not spare the chair for relations' sake.

Mr. EVANS (Weber). Now, gentlemen, we have been here day after day for thirty-five days or more. If this principle be established, mark what I tell you, that you will have a difficult path to travel. It cannot not be otherwise. It could not be otherwise in any legislative body. It could not be otherwise in Congress—in the Legislature, or in the city council. The final vote upon the whole proposition is the only instance in which a majority of all the members elected are required, in order to pass it. A quorum under all circumstances and upon every occasion, or whether a majority of a quorum is sufficient to insert an amendment in any proposition. As Mr. Hart has stated, the chair has once ruled that this was true, and the gentleman from Cache desired a construction upon that rule and was ruled out of order. Gentlemen, be patriotic, do as your leader has informed you. If you think you have made a mistake and desire to have this matter stricken out, move to reconsider in the orderly manner, but do not, under the guise of desiring to leave the Constitution so open that corporations may receive the credit of the State, violate fundamental principles of parliamentary law.

Mr. SQUIRES. Mr. President, I move the previous question.

The motion for the previous question was rejected.

Mr. CANNON. Mr. President, I would like to ask Mr. Evans a question?

Mr. EVANS (Weber). I am perfectly willing.

Mr. CANNON. I desire to ask Mr.

* Evans his interpretation of the latter part of rule 27. (Reads.)

Mr. EVANS (Weber.) That is a majority constitutes a quorum for the transaction of business. The proposition referred to in rule 27, as I understand it, is the main proposition, like a bill pending in the Legislature. It does not mean amendments.

Mr. CANNON. The words, "or other matter," how would you interpret that?

Mr. EVANS (Weber). Well, I do not know just what that would reach, I am sure; I have not thought about that. It certainly would not reach an amendment. It is something to be inserted in the Constitution.

Mr. ROBERTS. I would suggest that it would be on the submission of a separate article.

Mr. PARTRIDGE. Mr. President, I have noticed that when anything is under discussion there are a few men who occupy the floor, and a man that is a little backward about it, does not have an opportunity until they all get tired and worn out, and then they want the previous question. Now, with regard to this matter, it seems to me there is one thing that some of these gentlemen overlooked when they hold that this amendment proposed by Mr. Varian is in the nature of a proposition. If I understand the order of business here, when a proposition is presented to this house, it is referred to a committee and they have to act upon it and bring it in here and take its regular order. But this amendment of Mr. Varian's, or this section that is proposed to be added here, is simply in the nature of an amendment to the proposition. This section, it is true, has been discussed. I do not see how anyone can understand that this refers to an amendment to a proposition. The proposition itself, upon final agreement of it, must be by a majority of the members elected, and also the instrument. What does the instrument mean? It does not mean the proposition. It means the Constitution, as I

understand it. The final agreement on the instrument, which is the Constitution, that we are making, and I do not see why men should occupy so much time in telling so little.

Mr. GOODWIN. Mr. President, I am sorry that we have not had a photographer here as well as a stenographer this last hour. It would have been something to keep in the future, because we have had some displays. What I want to say is more in explanation of how I feel, perhaps, than to be entirely strictly applying to the subject. The gentleman from Weber, Mr. Evans, said that beside our rules, there was an unwritten law here. I am going behind that. I am going back to the original law of nature, which gives every man and everybody the right to self preservation.

We have been told something about being engaged in what in chaste language would be called a trick. I want to say that the reason we are in this position is because of a trick. The secretary made an error in his count, or two gentlemen beside me made errors. We had the majority, but in the hasty work, the secretary made an error. It was reported to the president, and he ruled before anyone in the world could interpose any objection or make any motion. Taking advantage of that, knowing that the ruling was the other way perhaps, and perhaps not, I won't say — the parliamentary law was sprung that the question had been determined by the president. That was perfectly legitimate, but the thing now to do is to correct that error, if we can, and rather than to vote this whole measure down — this whole article, if we can get it back on the floor, it will save a great deal of trouble. Further than that, if we cannot, it will be necessary to vote down the whole measure, because, I know that the sentiment of my constituents, and all of this city, which contains at least a quarter of the voters of this Territory, is that they do not

want anything like that in the Constitution. It is simply some of the hair of the same dog that we thought we had killed yesterday. To come down to the point, it is simply forcing into the Constitution something which will prevent the people of this city or any other city doing what they want to do with their means.

Mr. CREER. May I ask the gentleman a question? Is not the gentleman who introduced this substitute a delegate from this city?

Mr. GOODWIN. He seemed to be a delegate at large.

Mr. CREER. Then, how can you challenge the sentiment of the city?

Mr. GOODWIN. I do not believe that is pertinent. I am simply giving my belief. It is simply a continuation of what we thought we had squelched yesterday, and it is easy enough to see where it comes from. The first real hearty cheer we had this week came from democratic headquarters, when it was announced that that vote had been carried. I deny that it ever was carried. There are just as good mathematicians here—I was not engaged in it myself, I take no credit, but a gentleman on either side of me took that count and it gave us two majority. So a vote to sustain the chair is a matter of self-preservation.

Mr. EVANS (Weber). What was your count?

Mr. GOODWIN. Forty-four and forty-five his was.

Mr. EVANS (Weber). There were 45 yeas were there not, according to your count?

Mr. GOODWIN. Yes, sir.

Mr. EVANS (Weber). That would not change the result. A count was made here by disinterested parties that agreed exactly with the secretary, and even your count does not seem to change the result.

Mr. GOODWIN. There is a majority of one on the one hand and a majority of two on the other. I merely wish to

explain that I am going to vote to sustain the chair and I am doing it, for the purpose of getting this back, if possible, on the floor because it seems to me that this comes now to be submitted with the rest of the article. We are apt to squelch it all and have to do it over again.

Mr. WELLS. Cannot you subserve the same purpose by reconsideration?

Mr. GOODWIN. If some gentleman who voted in the affirmative will make the motion, yes.

Mr. WELLS. I am prepared to state that there is a gentleman who voted in the affirmative who will move to reconsider it.

Mr. GOODWIN. I hail that as a good omen. I am glad to see men reform even in their old age.

Mr. IVINS. Does the gentleman still wish to sustain the chair after this statement that has been made?

Mr. GOODWIN. Miners always keep on the ore. I will sustain the chair until we get beaten.

Mr. THOMPSON. Mr. President, according to the reading of rule 23, I shall vote in favor of the decision of the chair. Now, if I understand the reading of this rule 23 right, the chair has decided correctly, but according to the plan that we have adopted and carried out during our session, it has been contrary to this rule, and I have considered all the way through in our labors here that when an article was voted upon by yeas and nays or otherwise, it was to add it to the article, and then as the article was presented that we voted on that as a whole. I have understood all the time that it was just as proper and right for it to be added to the article if there was a majority present who voted in favor of the article, and I think that is proper and right, but it seems to conflict with rule 27, while it carries the idea in rule 27 that a majority is a proper number to do business, and at the same time this rule 23 provides that there must be a majority vote; so I think, the

rule 23 is not a good rule and it ought to be erased or disposed of. If I vote, holding to the rule, I shall vote to sustain the chair. I cannot see any other way for me to do, because he is right according to that rule.

Mr. EVANS (Utah). Mr. President, I take it for granted that this committee desires to hear some more on this question, for the reason that they have just defeated the previous question. It appears very strange that we should disagree so materially upon a section of the rule. Section 23 provides distinctly for two things that are to be done that require a majority of all the members elected to this Convention. I submit to you, sir, that if we shall proceed upon the line that has been sought to be followed out by gentlemen that have spoken upon this floor, that of necessity it must constitute three distinct propositions upon which it must require a majority of all the votes elected to this Convention. If you will notice in rule 22, it provides. (Reads.) That is, taking the various propositions, when they are finally arranged and compiled. They have a right to arrange them and make them harmonize with themselves, so far as they do not interfere with the subject matter. Now, Mr. President, I take it that one of the conditions and one of the requirements is that it is necessary after that labor has been done that the majority of all the members elected to this Convention—

Mr. MILLER. Doesn't this require the committee on compilation and arrangement.

Mr. EVANS (Utah). Yes, sir.

Mr. MILLER. Rule 22 goes under the general rules, does it not?

Mr. EVANS (Utah). I will come to that directly. After the committee on engrossment and enrollment have returned it back here for its final passage, as a whole, when it is acted upon, if it shall receive the majority of all the members elected to this Convention, it will be the Constitution. That is what

is referred to as one of the things that requires a majority vote of all the members in rule 23. The instrument that has been returned back by the committee on compilation and arrangement, is the instrument as a whole. Now, sir, I submit to you, that the final vote agreeing to each proposition means and can mean nothing else than that it shall be the proposition after it has been amended by the committee or by the Convention, and has finally come to the position when it shall be passed upon to make a part of that Constitution that shall be turned over to the committee of the whole. And I ask the gentlemen upon this floor to point out to me another provision that will bear out their theory—making the third that requires the Convention to pass upon by a majority of the whole members elected. Now, sir, let us turn to rule 27, and analyze that for a moment. (Reads.) Now, what does that mean? Why, it means that they may do all ordinary business, that whatever comes up before this Convention, if there shall be a majority of the members elected here, that whatever the majority of that number shall do, except as to passing of those final articles, after amended, for the purpose of placing them in the Constitution, and for the purpose of passing the Constitution itself, shall be binding upon the members that are absent. I want to ask you, if they haven't got the right to do the business of the Convention, with the exception of the propositions to which I have referred, how are they to enforce the rules and bring in those absentees? Now, the object of bringing in those absentees, as I come to the last and final proposition. (Reads rule.)

Mr. President, I submit to you, that that is a modification, showing that the majority of the members elected here are a quorum to do business for this Convention, except as to those two things. The gentleman from Salt Lake asked what these other matters were.

I submit to you, sir, that it may be one of two things, or perhaps more, but one of those things might be this: there may be a matter that will be necessary to submit to the vote of the people separately, as it has been sought to do in this Convention already. That would be one of the things not to be inserted in the Constitution and it requires that the same effect shall operate, in order to carry that measure into effect, as for the passage of the Constitution itself. I submit to you, sir, that it might be necessary, after we shall have completed our labors and passed an article and have inserted it into the Constitution and have completed our work upon that question—we may find some important question that we have passed by. I submit to you, sir, that “other matters” means that that might be taken by this Convention and under its final rule of the majority of all the members elected to this Convention, they could place that in also.

Mr. CANNON. Mr. President, at the time this matter first came up, the desire was to find exactly how the vote stood. The vote was called for and an appeal was taken, but the point was raised that we did not call for it at that time. I submit that all of this time that has been wasted, or has been used in talking upon this subject, will not change the matter and I believe that the end will be the same in either way, either by sustaining the decision of the chair, or by a reconsideration, as some gentleman signified his willingness to move a reconsideration. For this reason and because I believe it to be in the interest of saving time, I now move the previous question.

The previous question was ordered.

The roll being called on the appeal from the decision of the chair, the vote was as follows:

AYES—21.

Allen	James
Brandley	Jolley
Cannon	Lambert

Chidester
Crane
Eldredge
Emery
Farr
Gibbs
Goodwin
Hill

Adams
Anderson
Barnes
Boyer
Button
Buys
Call
Clark
Coray
Corfman
Creer
Cunningham
Eichnor
Evans, Weber
Evañs, Utah
Francis
Hammond
Hart
Halliday
Howard
Hughes
Hyde
Ivins
Johnson
Keith
Kearns
Kimball, Salt Lake
Kimball, Weber
Larsen, C. P.
Lemmon
Lowe, Wm.
Lowe, Peter
Low, Cache
Lund

Larsen, L.
Miller
Morris
Murdock, Beaver
Shurtliff
Thompson
Van Horne.

NOES—67.

Maeser
Mackintosh
Maloney
McFarland
Moritz
Murdock, Wasatch
Murdock, Summit
Nebeker
Page
Partridge
Peters
Peterson, Grand
Peterson, Sanpete
Pierce
Raleigh
Richards
Roberts
Robison, Wayne
Ryan
Sharp
Snow
Spencer
Squires
Stover
Strevell
Symons
Thoreson
Thurman
Varian
Warrum
Wells
Whitney
Williams.

ABSENT—16.

Christiansen	Kerr
Cushing	Maughan
Driver	Preston
Engberg	Ricks
Green	Robertson
Haynes	Robinson, Kane

Heybourne
Kiesel

Thatcher
Thorne.

PAIRED—2.

Bowdle

Lewis.

The decision of the chair was not sustained.

Mr. VARIAN. Mr. President, of course it will not do to have any proposition carried into this article under any circumstances of doubt or distrust. It ought only to be incorporated there after fair and full consideration and upon a vote as to which there is and can be no question in the minds of the opponents of the measure. I therefore ask this house on my motion to reconsider this vote by which this amendment of mine has been carried, which, if it shall be done, I will ask to have it continued over until to-morrow and proceed to other matters connected with this article. I move a reconsideration.

Mr. THURMAN. Mr. President, it may be that I misunderstood the motion, or the notice the gentleman gave. I understood his motion is that we reconsider the vote. I would like to move that this question be made the special order for to-morrow.

Mr. VARIAN. I accept that.

Mr. THURMAN. With that understanding, I have nothing further to say at the present time.

Mr. CANNON. Mr. President, I arise to a point of order, that we could not reconsider it at all to-morrow. It must be reconsidered the day it is passed. I do not know what the gentleman's motive is for making it.

Mr. CHIDESTER. Mr. President, I understand that in this case the rules are suspended if that is made a special order. That it could be reconsidered to-morrow. Is that the understanding?

Mr. THURMAN. I do not think there is any question about that.

Mr. VARIAN. Mr. President, it is not to violate any rule, but simply do as we did in the suffrage question.

The motion was agreed to.

The PRESIDENT. Section 31 is now under consideration.

Section 31 was read.

Mr. VARIAN. Mr. President, I now call attention to paragraph 9. It was in committee of the whole. The words "irrevocable, special, or exclusive," I move to strike out those four words in line 21. Of course, you must bear in mind that this is under the first clause of the section, prohibiting the Legislature from enacting private or special laws granting any privileges, immunity or franchise, whatever. In section 24 of the bill of rights the general prohibition against irrevocable franchises and privileges is found, and if this is not taken out here, there might be an implication that by special law the Legislature could grant a special privilege or immunity that was not irrevocable. Now, that is not the intention of the Convention, I am certain. Their intention is first to prohibit the Legislature generally from granting any privilege or franchise which shall be irrevocable in its nature. Second, the intention is to prohibit granting by special law any privilege, immunity, or franchise, whether it is irrevocable or not, so you have the two counts. One is the bill of rights, which is general, as to the irrevocability of the privilege, and one in this article, which is as to special legislation.

The motion to strike out was agreed to.

Mr. VARIAN. Mr. President, I now move to add the amendment which has been printed to section 31, at the end of the section.

Insert after line 32, the following:

But nothing in this section shall be construed to deny or restrict the power of the Legislature to establish and regulate the compensation and fees of county and township officers; to establish and regulate the rates of freight, passage, toll and charges of railroads, toll roads, ditch, flume, and tunnel companies, incorporated under the laws of this State or doing business therein.

Mr. EICHNOR. Would not the Legislature have the power anyhow, even, if your amendment was not inserted?

Mr. VARIAN. Well, I do not know. I will say frankly, Mr. President, I am not prepared to say. That is a question of constitutional law and construction, that I would not like to answer just now. I find that this provision has been adopted so often that it occurred to me without further investigation that it would be just as well to put it in the Constitution.

Mr. JAMES. I want to suggest to Mr. Varian that this matter has been provided for in the article on incorporations.

Mr. VARIAN. Well, I don't desire to encumber it. I will ask the gentleman, is this principle provided for in the article to be reported? I do not understand that the article on incorporations has been reported.

Mr. JAMES. No, but it has been agreed upon by the sub-committee and will be submitted to the full committee just as soon as I can get them together.

Mr. VAN HORNE. Mr. President, it seems to me that it is unnecessary here. There is nothing in this article that deals with the subject of regulating that at all. I do not believe that there is any question about the fact that the Legislature has the power to control those things anyhow. If we had provided for rates of fare in the article, it might have been proper to have put this section in. This section does not confer upon the Legislature a right to do that, but this section says nothing shall prohibit them from restricting that right, and for that reason it seems to me a superfluous amendment.

Mr. EICHNOR. I would like to ask Mr. Varian another question. If this amendment is added to line 32, would the Legislature have power to make special regulations as to the rates of freight on a certain line?

Mr. VARIAN. I think not.

The question being taken on the

adoption of the amendment, the Convention divided and by a vote of 41 ayes to 29 noes, the amendment was agreed to.

Mr. VARIAN. Mr. President, I offer for the consideration of the Convention one more amendment to this section, after line 3:

First. Regulating the jurisdiction and duties of justices of the peace;

Second. For the punishment of crimes and misdemeanors;

Third. Regulating the practice of courts of justice;

Fourth. Providing for a change of venue in civil or criminal actions;

Fifth. For the assessment and collection of taxes;

Sixth. Regulating the interest on money;

Seventh. Changing the law of descent or succession.

I think those matters were overlooked by the committee.

Mr. CANNON. Mr. President, I notice some of those matters are covered by other committees. I do not know what the object is of putting them in here. I do not know as it is necessary. It seems to me to be providing twice for the same point. For instance, the item on taxes, the revenue and taxation report that is before the Convention provides that that shall always be uniform, and that there shall not be special taxes, and why insert it here? I ask for information.

Mr. VARIAN. Mr. President, I do not know anything about the provision in the article on revenue. It has not been passed, and I find these provisions are usual and are affirmed in every case where the Constitution is made. I did not know, I will say to you, gentlemen, what this article on revenue and taxation provides. It simply provides against special legislation.

Mr. BUYS. I would like to ask Mr. Varian if it would not be well to put police magistrates in with justices of the peace—whether you would have any objection to that?

Mr. VARIAN. Not at all. I have no

objection to it. If the gentleman makes the suggestion, I will accept it.

Mr. BUYS. Regulating the duties and jurisdiction of justices of the peace and police magistrates.

Mr. EICHNOR. Is there any such an office as police magistrate in this Territory?

Mr. BUYS. I do not know, but there can be and will be probably under our State law.

The amendment offered by Mr. Buys was rejected.

The amendment offered by Mr. Varian was agreed to.

Mr. BUYS. Mr. President, in subdivision five of this article, I think the word "town" should be in the plural, on the first line of the page, and the ninth line of this section. And there is no provision for highways in here, which I think should be, and I would move that the word highways be inserted after the words "town plats."

The amendments were agreed to.

Mr. L. LARSON. Mr. President, I wish to call your attention to section 6. I make a motion that the word "twenty-five" be stricken out, in line 3, and the word "thirty" be inserted instead thereof.

Mr. BARNES. We voted that down yesterday.

Mr. L. LARSON. I understand that. I wish to explain why I make this motion. I desire to be reported correctly on this question. When I made the motion, it has been reported in the papers that it was thirty-five years that I wanted a senator to be before he could be a senator. It was thirty. I do not want this to go home to my constituents, who are young people of this Territory, that I want them to be thirty-five years, and hence I take this method to be correctly reported.

Mr. THURMAN. I move a vote of censure on the newspapers.

The amendment was rejected.

Mr. THURMAN. I would like to ask

now, if the gentleman feels vindicated by that vote?

Mr. HOWARD. Mr. President, I wish to offer an amendment to section 6. I move that the words "or representative," be inserted after the word "senator," on line 2 of section 6, and that section 7 be stricken out. My reason for that is that both sections read exactly the same, with that exception. By reading these sections you will find that yesterday there was an amendment made to section 7, making the age twenty-five, which in both is the same now, and the only difference there is now is that one provides for senator and the other for representative. The senator requires a residence in the State of three years and the representative a residence of two years. If my amendment prevails, it will require a residence for both senator and representative of three years, and I think that is proper. One section in that case will answer for both. We have in this State some forty or fifty thousand men that have been residents for a long time, and I think that we can get enough out of those men to go to the Legislature without taking what we may term newcomers.

The amendment was agreed to.

The Convention then, at 5:10 o'clock p. m., adjourned.

FORTY-FIRST DAY.

SATURDAY, April 13th, 1895.

The Convention was called to order at 10 o'clock a. m. by President Smith.

Roll call showed a quorum present.

Prayer was offered by Delegate Hughes, of Cache County, Utah.

Journal of the fortieth day's session was read and approved.

The following petitions were presented, asking that the question of woman's suffrage be submitted as a separate article to the vote of the people:

File No. 284, from citizens of Salt Lake City, in mass meeting assembled, to the number of 500, signed by J. H. Bacon, chairman.

File No. 285, signed by John L. Bartow and 41 others, from Provo, by Thurman, of Utah.

File No. 286, signed by J. W. Dunn and 70 others, from Frisco, by Anderson, of Beaver, by request.

File No. 287, signed by C. H. Valentine and 46 others, from Brigham City, by Gibbs, of Box Elder, by request.

File No. 288, signed by J. E. Pike and 66 others, from Salt Lake, by Button, of Salt Lake.

File No. 289, signed by S. G. Stookey and 54 others, from Salt Lake, by Eichnor, of Salt Lake.

File No. 290, signed by Jacob Johnson and 56 others, from Spring City, by Page, of Sanpete.

File No. 291, signed by A. Johnson and 148 others, from Mt. Pleasant, by Page, of Sanpete.

File No. 292, signed by Amos H. Neff and 44 others, from East Mill Creek, by Cannon, of Salt Lake.

Ordered filed.

File No. 293, signed by O. N. Stohl and 558 others, from Box Elder, asking that a clause be placed in the Constitution for woman's suffrage, by Peters, of Box Elder.

Ordered filed.

Mr. CANNON. Mr. President, I have a petition here from H. Smith and forty-four others, asking that the question of woman's suffrage be submitted to the people in a separate article. I also had handed to me this morning a letter from Murray, in which the writer states that at a meeting in South Cottonwood the other day the question was submitted, that between three and four hundred persons were present, and that they were unanimously in favor of inserting it in the Constitution and not as a separate article.

Mr. HAYNES. Where was the meeting held in Murray?

Mr. CANNON. This was held, as I stated, in South Cottonwood ward. I would also state that in this communication it is stated that two meetings were held, at one of which Mr. Haynes was present, and the question was not presented to the people there. That one of the parties present declared that he requested it to be presented, but it was not presented to a vote of the meeting. I do not know why, or anything about it.

Mr. HAYNES. For the purpose of putting myself right on this question I wish to say that I have been at no meeting of the citizens of South Cottonwood or Murray for or against it since the meeting of this Constitutional Convention. That part of it that refers to me is not true, whoever the author of that letter may be.

Mr. BOWDLE. Mr. President, I move that the communication be returned to the gentleman.

Mr. CANNON. Mr. President, I wish to state that the meeting was called for the purpose stated, but I stated that the meeting was held and that at that meeting the question came up. One party said he requested that a vote be taken upon it. That is the way the matter was sent to me. The meeting, as I understand it, was called to consider the irrigation article.

The PRESIDENT. This is all out of order.

The committee on judiciary reported as follows:

Committee Rooms, April 12, 1895.

To the President of the Convention:

Your committee on judiciary beg, respectfully, to present herewith an article for the consideration of the Convention. The effort has been to provide with the utmost economy, an efficient system. The various papers submitted have been carefully considered; from them much information has been obtained and many of their suggestions have been adopted. An expense of \$10.40 was incurred in preparing papers. The article as presented bears the endorsement of the full committee.

With great respect,
C. G. GOODWIN